

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

IN RE: BIOMET M2a MAGNUM HIP  
IMPLANT PRODUCTS LIABILITY  
LITIGATION (MDL 2391)

CAUSE NO. 3:12-md-2391

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THIS DOCUMENT RELATES TO ALL CASES )  
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**PLAINTIFFS' PROPOSED COUNSEL ORGANIZATIONAL STRUCTURE**

COME NOW, the Plaintiffs' counsel, with the unanimous support of the counsel listed herein below, and filed their proposed their Proposed Counsel Organizational Structure in accordance with Paragraph 4 of Pretrial Order No. 1 entered on October 12, 2012.

**Proposed Organizational Structure**

Pursuant to this Court's instructions, the undersigned consortium of Plaintiffs' law firms present the within application as a proposal for permanent lead counsel, permanent executive committee, permanent steering committee, permanent liaison counsel, and federal-state liaison counsel positions. This proposal comes as a result of much discussion among various counsel representing plaintiffs in this litigation. The undersigned have conferred extensively with many of the attorneys who represent or who will represent Plaintiffs in this MDL in an effort to reach a consensus as to a proposed counsel structure for purposes of this MDL. Much thought and work has gone into the organizational structure proposed herein and the proposal is the product of conversations by attorneys from across the country who have devoted a substantial amount of time, effort and resources into the investigation and development of these cases, and who are

committed to working together for the mutual interests of their respective clients. Counsel, who have led these discussions have been actively involved in the leadership and extensive experience with hip implant litigation pending elsewhere. In submitting this proposal, the undersigned have worked closely with Brian Devine, the Court-appointed interim Plaintiffs' Liaison Counsel, to reach the consensus and proposed organizational structure offered herein. In addition, the experience in managing existing MDL's involving hip implant products has been a guide.

As discussed in Section 14.211 of the Manual for Complex Litigation (Fourth), "private ordering" is the recommendation of attorneys with related actions for a particular organizational structure to manage and conduct the litigation, and if adequate to represent the interests of the litigants involved in the proceeding, is one of the methods that Courts have generally used to appoint common benefit counsel in mass tort litigations. In the related context of class action counsel selection, the Third Circuit Task Force on the Selection of Class Counsel observed in its Final Report that "[m]uch of the time [class action plaintiffs' counsel] work out among themselves a voluntary plan to allocate responsibility, often referred to as 'private ordering.'" *Selection of Class Counsel*, Final Report, Section I.D., p. 6.1 As the Task Force<sup>1</sup> recognized, "[c]ase law and experience indicates that the dominant scenario for appointing class counsel is deference to private ordering," further noting that there is generally no reason to consider alternatives to this structure "when the court is presented with qualified counsel who have been chosen through private ordering." *Id.*, Section XII, p. 95.

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<sup>1</sup>This Report is available on-line at:  
<http://www.ca3.uscourts.gov/classcounsel/final%20report%20of%20third%20circuit%20task%20force.pdf>

The ordering of a proposed organizational structure for the Plaintiffs in this Biomet M2a Magnum Hip Implant MDL is necessary to allow the Plaintiffs to compete on a more level playing field with the Defendants.. Unlike the Defendants and their counsel, who will draw from long-standing cohesive organizations, counsel for the Plaintiffs in this litigation must merge quickly to create strategic alliances amongst themselves to litigate against a large and well-financed law firm – a process that may have the potential for inequity. The Plaintiff’s leadership committee needs to be structured to compete on a level playing field with its colleagues on the other side of the “V”. Without the ordering of Plaintiff’s Counsel Structure, the Court is faced with the challenge of selecting from plaintiffs’ law firms that often compete against each other for “market share,” and scuffle for leadership positions to litigate against a powerful corporate entity.

While it is the Court’s obligation to appoint the leadership in these MDL’s, the undersigned submit this suggested organizational structure that is being proffered by coordinating and cooperating counsel for Plaintiffs as a proposal to aid the Court. In circumstances like these related MDL’s where a large number of Plaintiffs’ counsel have made extensive efforts to organize themselves, the Court’s role in the appointment-of-counsel process is hopefully assisted, and perhaps guided by that cooperative effort. The structure proposed herein will avoid the potentially disorganized and inefficient leadership that can result from an organizational structure composed of competing applications.

The undersigned submit that the proposed structure is necessary to accommodate and sustain the large volume of work that will commence in the coming months. It is imperative that Plaintiffs be able to have a competent and organized structure in place to properly and efficiently advance this litigation. Recent product liability MDL’s have had much larger PSC’s, such as

DePuy ASR (MDL 2197) with 34 attorneys, and DePuy Pinnacle (MDL 2244) with 42 attorneys. The Defendants herein are represented by a large defense law firm with hundreds of attorneys, all of whom will be coordinating their defense efforts in this litigation. Plaintiffs' counsel must likewise prepare for the large amount of work that will be necessary to prepare these cases effectively, and the manpower and womanpower will be essential. The Coordinating Co-Lead Counsel in conjunction with the Executive Committee will be responsible for coordinating the efforts of the members of the Plaintiffs' Steering Committee.

Based on the foregoing, the undersigned respectfully submit the following proposed counsel structure for the Plaintiffs in this litigation, with individual attorney resumes attached hereto for the Court's consideration:

**COORDINATING CO-LEAD COUNSEL**

Thomas R. Anapol – Anapol Schwartz  
W. Mark Lanier – The Lanier Law Firm

**EXECUTIVE COMMITTEE**

Anne Andrews – Andrews & Thorton  
Richard J. Arsenault – Neblett, Beard & Arsenault  
Peter Flowers – Foote, Meyers, Mielke & Flowers  
Douglass A. Kreis – Aylstock, Witkin, Kreis & Overholtz  
Shelly Hutson – Clark Love & Hutson  
Daniel S. Robinson – Robinson, Calcagnie & Robinson

**PLAINTIFFS' STEERING COMMITTEE**

Larry P. Boyd– Fisher, Boyd, Brown & Huguenard  
Daniel C. Burke – Parker & Waichman  
John R. Climaco – Climaco, Wilcox, Peca, Tarantino & Garofoli  
Stacy K. Hauer – Johnson Becker  
Lawrence L. Jones – Jones Ward  
Michelle L. Kranz – Zoll, Kranz & Borgess  
Derriel C. McCorvey – Law Office of Derriel C. McCorvey  
Michael L. McGlamry – Pope, McGlamry, Kilpatrick, Morrison & Norwood  
Peter A. Miller – The Miller Law Firm  
Joseph A. Osborne – Babbitt, Johnson, Osborne & LeClainche  
Ellen Relkin – Weitz & Luxenberg  
Joseph H. Saunders – Saunders & Walker  
Navan Ward, Jr. – Beasley Allen Law Firm

Genevieve M. Zimmerman – Zimmerman Reed

**PLAINTIFFS' LIAISON COUNSEL**

Robert T. Dassow and Frederick R. Hovde – Hovde Dassow & Deets

Respectfully submitted, this 9th day of November 2012.

By:

/s/ Brian J. Devine

Brian J. Devine, Esq.

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/s/ Thomas R. Anapol

Thomas R. Anapol, Esq.

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/s/ W. Mark Lanier

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**APPLICATION OF THOMAS R. ANAPOL  
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November 7, 2012

The Honorable Robert Miller, Jr.  
United States District Court Northern District of Indiana  
Robert A. Grant Federal Building  
204 South Main Street, Room 325  
South Bend, IN 46601

RE: **In Re: Biomet M2a Magnum Hip Implant Products Liability Litigation, MDL  
2391**

Dear Judge Miller:

I respectfully submit my request for appointment to the PSC and more specifically as Co-Lead Counsel in this Biomet M2a Magnum Hip Implant Products Liability Litigation MDL proceeding. It would be my honor to serve in the litigation if appointed by this Court to represent the common interests of Plaintiffs in this MDL.

I am a partner with the law firm of Anapol Schwartz with offices in Philadelphia, Pa., Cherry Hill, NJ, and Scottsdale, Az. I am a member in good standing and licensed to practice law in Pennsylvania and New Jersey as well as the Eastern District of Pennsylvania and the 3<sup>rd</sup> Circuit. My law firm has been involved in complex mass tort, medical device and pharmaceutical litigation nationwide for roughly more than two decades. Members of my firm, myself included, have held various leadership roles on multiple state coordinated and MDL PSC's including some as lead or co-lead counsel in the following cases: Fen-Phen, Rezulin, Propulsid, Baycol, PPA, Avandia, Trasylol (lead counsel), Ephedra, Human Tissue (co-lead counsel), Fosamax, Kugel Mesh, Hydroxycut, Yaz, Medtronic and Guidant Heart Devices, Zimmer NexGen Knee (co-lead counsel), Pelvic Repair System and most recently the NFL Concussion MDL (co-lead counsel).

I received a degree in Business Administration from Boston University in 1988 and my law degree in 1991 from Widener University School of Law. I have been an active member of the Pennsylvania Bar since 1991. Over the years, my individual practice has evolved from handling individual product liability and medical malpractice cases to pharmaceutical and more specifically medical device mass tort litigation. I have been recognized as a Super Lawyer since 2006 and in 2012, I was named a top 100 Super Lawyer in Philadelphia and Pennsylvania. I currently co-chair the firms Mass Tort Litigation Department, which has grown in size and stature over the last several years.

November 7, 2012

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With respect to leadership responsibilities outside of my firm, I am proud to submit that I have served as a Board of Governor for the Pennsylvania Association of Justice (formerly Pennsylvania Trial Lawyers Association) from 2005 to the present. In 2012, I was elected Treasurer of the Association, and I am in line to become the President of the Association in four years. I am also a long standing member of the American Association of Justice (AAJ) and as it relates to this litigation, I was appointed in 2010 as co-chair of AAJ's DePuy Metal-on-Metal Hip Litigation Group. This past month I was also appointed co-chair of AAJ's newly-formed Biomet Metal-on-Metal Hip Litigation Group. As the co-chair of these groups it is my responsibility to provide other attorneys with updates on the litigation, including emerging science, case law and regulations relating to these products and the related litigation through quarterly meetings and CLEs. In handling my firms' cases and in leading these litigation groups for AAJ, I believe I am particularly qualified to serve as Co-Lead Counsel in this MDL.

I was appointed by Judge Katz in 2011 and currently serve on the discovery committee of the DePuy ASR PSC. I was also appointed by Judge Goodwin and currently serve on the PSC of the Pelvic Mesh MDLs in West Virginia. While both of these responsibilities have been somewhat time consuming, I would be fully committed and have the resources to take on the responsibility of Co-Lead Counsel in this litigation should Your Honor approve this application. Among our group submitting this joint request for leadership in this MDL, I am honored and humbled to have been selected to request Co-Lead Counsel.

I am prepared to take on this responsibility on behalf of the roughly 35 claimants I currently represent in this litigation. I expect that number to grow, much like the number of claimants I initially represented in ASR and Pinnacle has grown over time. In those litigations, I now represent over 250 individuals who have suffered injuries related to their Metal-on-Metal hip implants. Thus, I possess in-depth knowledge relating to the mechanism of failure of metal-on-metal hips, the injuries caused by these products and the enormous body of medical literature that is emerging related to these products.

In addition to my personal commitment to take on the responsibilities as Co-Lead Counsel, my law firm is fully committed to provide the necessary time and economic resources needed for such a role. I am confident that I have demonstrated that I have the resources, commitment and qualifications to serve as Co-Lead Counsel in this litigation. I have worked collaboratively in the past with most of the attorneys seeking leadership in this MDL. I believe I have the necessary skill, knowledge and experience to address the interests of all participants and to assist this Honorable Court in efficiently managing this MDL proceeding.

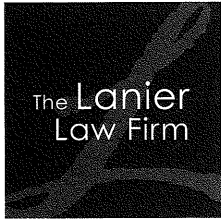
Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Thomas Anapol", written in a cursive style.

**THOMAS R. ANAPOL, ESQUIRE**



**APPLICATION OF W. MARK LANIER  
THE LANIER LAW FIRM**



A Professional Corporation

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November 8, 2012

Hon. Robert L. Miller, Jr.  
United States District Judge  
United States District Court  
Northern District of Indiana  
South Bend Division  
204 Main Street  
South Bend, IN 46601

**Re: Application of W. Mark Lanier to the position of Plaintiffs' Coordinating  
Co-Lead Counsel in *Biomet M2a Magnum Hip Implant Products Liability Litigation*,  
Case No. 3:12-md-2391**

Dear Judge Miller:

I respectfully submit this letter seeking your consideration to appoint me to serve as Coordinating Co-Lead Counsel in this MDL proceeding. Throughout the past many years, The Lanier Law Firm has earned the reputation that our attorneys work well with fellow plaintiffs' counsel, and perhaps as importantly, with defense counsel and the Court, thereby leading to efficiencies for all participants, including the Courts that have overseen and played an active role in the settlement of our cases.

We have been intimately involved in assisting in the prosecution of the DePuy ASR hip litigation and the DePuy Pinnacle hip litigation, both of which will have ties to this litigation as all three litigations involve metal-on-metal devices. In addition to being appointed by Judge David Katz to serve on the Plaintiffs' Steering Committee in the DePuy ASR hip litigation, I was most recently appointed by Judge Ed Kinkeade to serve on the Plaintiffs' Executive Committee and to lead the trial team in the DePuy Pinnacle hip litigation.

I believe that our proven record justifies our inclusion in the Leadership Counsel position in this MDL, which includes the significant mass tort and individual settlements we have achieved and our historical verdicts totaling one billion dollars. These verdicts include a \$56.3 million product liability case in 2010; three Vioxx verdicts from 2005 through 2007, including the first verdict for \$253 million; an eight figure verdict in a oil drilling/pollution case, a \$474 million verdict in oil and gas field case; and a \$118 million dollar verdict in an asbestos mass tort case for 21 plaintiffs. Our settlement record includes multiple eight figure settlements in mass tort pharmaceutical cases; a \$32.5 million settlement in an antitrust case in 2009; a nine-figure personal injury settlement on behalf of a number of oil/gas plant workers in 2008; a \$60 million settlement in an antitrust case in 2007; a \$160 million antitrust settlement in 2004. Additionally, LLF's aforementioned Vioxx® trial cases helped lead to the \$4.85 billion settlement of the litigation for all qualifying Vioxx® claimants.

Moreover, attorneys from LLF have substantial MDL-related mass tort products liability experience which further supports this application to be included within this Leadership Counsel position. LLF, and in particular Rick Meadow, managing attorney of LLF's New York office, and me, have played significant roles in many other pharmaceutical, medical device and product liability MDL litigations, serving either on the PSC or in leadership roles in IN RE: Vioxx Litigation, MDL 1657, E.D.LA.; IN RE: Bextra and Celebrex Liability Litigation, MDL 1699, N.D.CA.; IN RE: Zyprexa Litigation, MDL 1596, E.D.N.Y.; IN RE: Avandia Litigation, MDL 1871, E.D.PA.; IN RE: Neurontin Litigation, MDL 1629, D.MA.; IN RE: Levaquin Litigation, MDL 1943, D.MN.; IN RE: Heparin Litigation, MDL 1657, N.D.OH.; IN RE: Digitek Litigation, MDL 1968, S.D.W.V.; IN RE: Fosamax Litigation, MDL 1789, S.D.N.Y.; IN RE: Chantix (Varenicline) Litigation, MDL 2092, N.D.AL.; IN RE: Trasylol Litigation, MDL 1928, S.D.FL.; IN RE: Viagra Litigation, MDL 1724, D.MN.; and IN RE: Gadolinium Contrast Dyes Litigation, MDL 1909, N.D.OH.<sup>1</sup> LLF has held Leadership positions in: Avandia®, Digitek®, Bextra®/Celebrex®, Levaquin®, Heparin® and Zyprexa®.

Through this work and because of the great support of over 60 lawyers that practice at our offices in Houston, New York, Los Angeles, and Palo Alto, a number of honors have come our way. In 2010, The National Law Journal ("NLJ") named me as one of the Most Influential Attorneys of the Decade (the only plaintiff attorney so named), and on June 28, 2010, Texas Lawyer named me as one of the "25 Greatest Texas Lawyers of the Past Quarter-Century." In 1998 and 2006, the NLJ recognized me as one of nation's Top 10 Trial Attorneys, and in 2006, the NLJ designated me as one of the 100 Most Influential Lawyers in America. The NLJ also named me among the country's 40 top attorneys under the age of 40. Each year I have been named a "Texas Super Lawyer," and for the last three years, I was one of the top ten in number of votes received. In 2002, Texas Lawyer newspaper named me as one of the Top 5 "Go To" Personal Injury Plaintiff Attorneys in Texas. The same publication named me as its 2005 "Impact Player of the Year" and later recognized me as the Top Personal Injury Lawyer in Texas in 2007. Most recently they named me as one of the Top 25 Attorneys of the Past Quarter Century. I have earned similar honors from other publications, including being named to *The Trial Lawyer Magazine's* America's 100 Most Influential Trial Lawyers of 2011. Under my leadership, *U.S. News and World Report* named The Lanier Law Firm to its list of Best Law Firms and *Best Lawyers* has named me as the 2012 Top Class Action Attorney. In October 2011, I was awarded the prestigious Clarence Darrow Award from The National Trial Lawyers Association, in recognition of my work and the pursuit of justice for my clients.

I am certified as a Personal Injury Trial Specialist by the Texas Board of Legal Specialization and am licensed to practice in all Texas state and federal courts, as well

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<sup>1</sup> We have also maintained lead roles in state court litigations concerning the following pharmaceutical litigations: Vioxx® (Atlantic County, NJ); Bextra®/Celebrex® (New York County, NY); Avandia® (Philadelphia County, PA); Neurontin® (New York County, NY); Levaquin® (Atlantic County, NJ); Fosamax (Atlantic County, NJ); Yaz/Yasmin/Ocella (Atlantic County, NJ); and Chantix® (New York State).

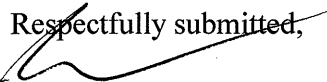
as the U.S. Supreme Court. I am also licensed to practice in New York State. I am also enthusiastically involved in government and community activities outside the practice of law. I serve on the Board of Trustees of the Committee for Economic Development, a nonprofit, nonpartisan organization that addresses ongoing critical economic and social issues facing society. I was recently named to the board of directors of the prestigious National Center for State Courts.

My firm is one of the largest plaintiff firms in Texas, and we have the knowledge and resources to prosecute this litigation, steering it to a successful conclusion. With our offices located in Houston, New York, Los Angeles and Palo Alto, LLF brings extensive nationwide resources to this MDL as its dedicated team of attorneys will be intricately involved in all aspects of the litigation.

I believe that LLF will be a major stakeholder in this litigation. We have been retained by over 50 injured parties and we are reviewing claims for an additional 200 individuals - and we expect this number to grow. We place great significance in the fact that so many injured persons and referring attorneys have turned to LLF for representation. The sheer number of our current and potential clients ensures that LLF will commit every resource required to enable this Court to expeditiously move this MDL through discovery and toward trial and/or early resolution - steps we have already undertaken by devoting substantial financial resources and dedicating a team of attorneys and paralegals to staff this litigation.

Some judges who might speak to my reputation include the Honorable Ed Kinkeade, United States District Judge for the Northern District of Texas, The Honorable Eldon Fallon, United States District Judge for the Eastern District of Louisiana, The Honorable Cynthia Rufe, United States District Judge for the Eastern District of Pennsylvania, and The Honorable Carol E. Higbee of New Jersey Superior Court.

If Your Honor appoints me to the position of Coordinating Co-Lead Counsel, the Court and the Plaintiffs' leadership committee will benefit from our commitment to this MDL, our prior track record, and, perhaps most importantly, our proven ability to work well with others on both sides of this litigation.

Respectfully submitted,  


W. Mark Lanier

**APPLICATION OF ANNE ANDREWS  
ANDREWS & THORTON**



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November 7, 2012

Hon. Robert L. Miller, Jr.  
United States District Court  
Northern District of Indiana, South Bend Division  
204 S. Main St.  
South Bend, IN 46601

**RE: Biomet M2a Magnum Hip Implant  
Products Liability Litigation  
Application – Plaintiffs' Executive Committee**

Dear Judge Miller:

By this letter I am submitting my application to serve on the Biomet M2a Magnum Hip Implant MDL Plaintiffs' Executive Committee. My name is Anne Andrews, and I am the co-founding partner of Andrews & Thornton located in Irvine, CA. I have practiced in the area of pharmaceutical and medical device products liability litigation for 30 years. I have been involved in federal multi-district litigations and various state court coordinated litigations since the Dow Corning Breast Implant litigation. I am or have been an active participant in metal-on-metal hip litigations including Stryker Rejuvenate, Zimmer Durom Cup, Depuy ASR, Depuy Pinnacle and this Biomet M2a Magnum Hip litigation.

Multidistrict Federal and Coordinated State Experience. I was appointed to the Plaintiffs' Steering Committee (PSC) by the Honorable Barry Ted Moskowitz for *In re Hydroxycut* (MDL 2087). I served on the PSC by appointment of the Honorable Jed S. Rakoff for the *In re Ephedra* litigation (MDL 1598). I served as Co-Plaintiffs' Liaison Counsel in *In re Metabolife* for 356 Cases (JCCP 4360) before Honorable Ronald Styn in San Diego, CA. I served as Lead Counsel in *In re Quinine* (JCCP 4565). I have been involved in various capacities for the following pharmaceutical litigations: *In re PPA* litigation (MDL 1470); *In re Diet Drugs* (Phentermine / Fenfluramine / Dexfenfluramine) products liability litigation (MDL 1203); *In re Silicone Gel Breast Implant* products liability litigation (MDL 936); *In re Vioxx* (MDL 1657); *In re Kugel Mesh* (MDL 1842); *In re Accutane* litigation (NJ MDL 271); *In re Actos* (MDL 2299 and JCCP 4696); *In re Avandia* (JCCP 4578); *In re Reglan Metoclopramide* (JCCP 4631); *In re Yaz Yasmin* (JCCP 4608 and MDL 2100); *In re Zimmer Durom Cups* (MDL 2158).

Multidistrict Litigation Experience. Along with my partner, John Thornton, I successfully conducted an extensive FRE 702 hearing in the SD NY involving complex scientific issues in *In re Ephedra* (MDL 1598), ultimately favorably impacting the claims of over

800 victims of dangerous dietary supplements. In the *In re Vioxx* (MDL 1657) litigation, we managed the scientific issues for *Barnett v. Merck*, which ultimately proved to be the turning point in settling the *Vioxx* litigation.

Multidistrict Bankruptcy Experience. I was appointed by the Honorable Cornelius Blackshear to serve on the Official Tort Claimants' Committee responsible for the representation of personal injury claimants in the Twin Lab bankruptcy (*In re TL Administration Corporation*). I served the Committee as Principal Negotiator resulting in the successful resolution of all tort claims. For *In re MII Liquidation, Inc.* (Metabolife) I was appointed by Honorable Peter W. Bowie to serve as Lead Counsel for the Court Creditors' Committee to successfully negotiate the settlement of 700 claims within this combined Chapter 11 and Chapter 15 bankruptcy. I served as Lead Counsel in the negotiation of claims for *In re N.V.E., Inc.* I was appointed by Honorable James M. Peck as Lead Negotiator in the Chapter 11 proceeding for *In re MuscleTech Research and Development, Inc.* I also served on the General Creditors' Committee in the *In re Chemtura Corporation* bankruptcy.

My firm has the financial and staffing capacity to undertake and support this litigation, including trials. We have exhibited our capability to work collegially with both our plaintiff counsel peers and with defense counsel from virtually every major pharmaceutical defense firm for successful resolution of pharmaceutical injury cases. We look forward to working towards resolution of the Biomet M2a Magnum cases at hand.

Sincerely,

ANDREWS & THORNTON

A handwritten signature in black ink, appearing to read 'Anne Andrews', with a stylized, cursive script.

Anne Andrews

**APPLICATION OF RICHARD J. ARSENAULT  
NEBLETT, BEARD & ARSENAULT**



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

IN RE: BIOMET M2a MAGNUM HIP  
IMPLANT PRODUCTS LIABILITY  
LITIGATION (MDL 2391)

CAUSE NO. 3:12-md-2391

**PLAINTIFF STEERING COMMITTEE APPLICATION<sup>1</sup>**

Dear Judge Miller:

As an officer of the court, and as a member of the Louisiana, Texas, Colorado and Washington, D.C. Bars, I respectfully submit that I am both willing and able to commit to this complex and time consuming process. My firm is one of the largest plaintiff firms in Louisiana and we have the resources required to prosecute this litigation, both in terms of finances and our infrastructure which is no stranger to complex litigation. I respectfully suggest that my experience as described below would be of value to the Plaintiff Steering Committee and I would be honored to serve.

MDL Judges are encouraged to appoint counsel who are vigorous advocates, constructive problem-solvers and civil with each other as well as their adversaries.<sup>2</sup> I respectfully suggest that I have these qualities as evidenced by state and federal courts throughout the country having appointed me to serve in leadership capacities, including lead counsel, liaison counsel, settlement counsel and executive committee chairperson, in some of the nation's most significant litigation, including numerous high-profile MDLs.<sup>3</sup>

Given the page limitations noted in PTO-1, some of my key biographical data is summarized as follows:

(1) I co-authored the chapter on Multidistrict litigation in the American Bar Association treatise (*A Practitioner's Guide to Class Actions*) and was asked by Judge John G. Heyburn, II, Chair of the Judicial Panel on Multidistrict Litigation, to participate in the Panel's "Multidistrict Litigation Study Project."

(2) My entire career, spanning over 30 years, has been focused on complex litigation. I have chaired the Louisiana Bar Association's Complex Litigation seminar since its inception. I have also made

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<sup>1</sup> We represent the plaintiffs in *Konowal v. Biomet, Inc., et al*, Civil Action No. 3:12-cv-00587; *Davis, v. Biomet Orthopedics, Inc., et al*, Civil Action No. 3:12-cv-00625; and *Hearn v. Biomet Orthopedics, LLC, et al*, Civil Action No. 3:12-cv-00635.

<sup>2</sup> *Manual for Complex Litigation Fourth*, Federal Judicial Center West, §10.224.

<sup>3</sup> What follows is an illustrative list of my PSC appointments by the federal bench: **Actos MDL No. 2299/Co-Lead Plaintiffs' Counsel**, Western District of Louisiana; **DePuy Orthopaedics, Inc. Pinnacle Hip Implant Products Liability Litigation MDL No. 2244/Plaintiffs' Executive Committee**, Northern District of Texas; **DePuy Orthopaedics, Inc. ASR Hip Implant Products MDL No. 2197/Plaintiffs' Discovery Committee**, Northern District of Ohio; **Vioxx MDL No. 1657/Plaintiffs' Steering Committee**, Eastern District of Louisiana; **Toyota MDL No. 2151/Plaintiffs' Lead Counsel Committee for Economic Loss Class Actions**, California; **Guidant MDL No. 1708/Co-Lead Plaintiffs' Counsel**, Minnesota; **Educational Testing Service Praxis MDL No. 1643/Liaison Counsel**, Eastern District of Louisiana; **Propulsid MDL 1355/Chair of the Plaintiffs' State Liaison Counsel**, Eastern District of Louisiana; **OCA, Inc. Securities and Derivative MDL No. 2165/Liaison Counsel**, Eastern District of Louisiana; **Bextra/Celebrex MDL No. 1699/Plaintiffs' Steering Committee**, California; **Medtronic MDL No. 1726/Plaintiffs' Steering Committee**, Minnesota; **High Sulfur Content Gasoline Products Liability MDL No. 1632/MDL Plaintiffs' Steering Committee**, Eastern District of Louisiana; **Ortho Evra MDL No. 1742/Plaintiffs' Discovery Committee**, Ohio; **Rice Contamination MDL No. 1811/Plaintiffs' Executive Committee**, Missouri; **Medtronic Sprint Fidelis Leads MDL No. 1905/Plaintiffs' Steering Committee**, District of Minnesota; **Zicam MDL No. 2096/Plaintiffs' Steering Committee**, District of Arizona; **NuvaRing Products MDL No. 1964/Plaintiffs' Steering Committee**, District of Missouri.

presentations throughout the U.S. and Canada on complex litigation topics and authored articles in various law review and other peer-reviewed scholarly publications.

(3) I have over 300 articles and presentations listed on my CV and I have authored many Law Review articles including one for the Federal Courts Law Review.<sup>4</sup>

(4) For over 20 years, I have chaired complex litigation programs with nationally recognized speakers and I have organized dozens of counsel meetings and conferences, comprising hundreds of law firms in venues across the country. These have been designed to facilitate consensus for leadership roles, consider organizational structures and promote coordinated litigation efforts. Consequently, I understand and function well in the national complex litigation landscape.

(5) My commitment to legal excellence is reflected in decades of service which has included teaching at law schools, lecturing at Judicial Colleges and Judicial Conferences and assuming leadership roles in local, as well as national bar associations.

(6) I served as co-counsel with **Professor Arthur Miller** in the Baycol MDL where the Plaintiff Steering Committee asked us to argue the class certification. Later, at a class action fairness hearing in another federal court, Professor Miller described me as one of the “leaders in the area of complex litigation.”

(7) Similarly, **Professor Edward Sherman** (former Tulane Law School Dean), with whom I have participated with in panel presentations and for whom I have served as a guest lecturer at Tulane, likewise has described me as one of the “experts” in class actions.

(8) **U.S. District Judge Donovan Frank** appointed me to serve as Co-Lead Counsel in Guidant MDL 1708. As the litigation came to a close, the court acknowledged lead counsels’ significant mass tort experience and explained: “This experience benefitted immensely the court’s ability to effectively and expeditiously move the case along, and more importantly, this experience benefitted the individual plaintiffs.” The Guidant MDL presented many unique challenges and much of my time as Co-Lead Counsel was spent in critical management efforts which were essential to coordinating the litigation. Again, this did not go unnoticed by Judge Frank who remarked: “The attorneys had superb case management experience that permitted them to efficiently handle this complex case. Had it not been for the skill of counsel, there may have been no settlement and no recovery for the plaintiffs here at all.” As one of the lead negotiators in the Guidant litigation, I was involved in every step of the process, all of which was directly supervised by **Magistrate Judge Arthur Boylan**, who noted that the negotiations were some of the “most complex” that he had been involved in and praised the “professionalism, competence and skill of counsel” during the settlement process.

(9) I served as co-lead counsel in class action litigation before **U.S. District Judge Rebecca Doherty**. At a fairness hearing, Judge Doherty stated: “This is a matter where counsel took it upon

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<sup>4</sup>Other recent publications include: “The Increasing Central Role of Bellwether Trials and MDL’s” published in *The Brief*, quarterly magazine of the ABA Tort Trial & Insurance Practice Section. “Settlement Strategies for Complex Global Litigation” published in “*TRIAL*” the Journal of the American Association of Justice. “Class Action Settlement of ‘Future Claims’” which appeared in a recent edition of the Louisiana Trial Lawyers Association publication. “Gathering Digital Data” published in “*TRIAL*” the Journal of the American Association of Justice. “Daubert in Class Certification” published in the Louisiana Bar Journal. “Will Daubert Challenge Your Class Certification?” published in “*TRIAL*” the Journal of the American Association of Justice. “Precertification Discovery: A User’s Guide” published in the Tulane Law Review, 80 Tul. L. Rev. 1827. “Multidistrict Litigation and Bellwether Trials: Leading Litigants to Resolution in Complex Litigation” published in *The Brief*, quarterly magazine of the ABA Tort Trial & Insurance Practice Section.

themselves to take this out of the norm and to handle it creatively, and they have handled it efficiently, ... and it has been reflective of the collective talent, experience, and ability of the attorneys involved..." "I think the novel manner in which this was handled is extremely laudable..." "The experience, reputation, and ability of the attorneys is exemplary. I think the curriculum vitae point that out, and I don't think it's every day that you have someone of Mr. Arthur Miller's stature who says that you have some of the best in the country working in a given case. That is high praise not unnoted by this Court..." Judge Doherty later asked us to make a presentation at a Fifth Circuit Judicial Conference to share the creative and unique techniques employed in the litigation.

(10) I was appointed by **U.S. District Judge Eldon Fallon** to serve on the Vioxx PSC and also served as Chair of the Federal/State Coordination Committee in the Propulsid MDL. Judge Fallon noted: "I appreciate the work that you are doing and urge you to continue to participate. If we're going to get through this in a cooperative manner it's going to rest on your shoulders and it's going to be because of your efforts. And I appreciate your efforts." (August 23, 2002 Transcript of Status Conference held before Honorable Eldon E. Fallon, Judge, pp. 11-12, ll. 9-25).

(11) I have been the architect of many significant litigation recoveries and have served on numerous MDL negotiating teams. In the last five years, I have personally participated in negotiations resulting in over \$1 billion dollars in settlements.<sup>5</sup>


(12) Currently, I serve as a faculty member for LSU Law School's Trial Advocacy Program; a faculty composed of federal and state court judges, professors and prominent attorneys. I have been a part of that program since its inception over 20 years ago.

(13) I have Martindale Hubbell's AV rating and am listed in many other peer-reviewed publications, including the Bar Register of Preeminent Lawyers and "Best of United States." I currently appear in the "The Best Lawyers in America" and have appeared in each consecutive edition since 1993. I have been named to the American Trial Lawyers Association's Top 100 Trial Lawyers in Louisiana.<sup>6</sup>

(14) I am actively involved in hip implant litigation. I was appointed by **U.S. District Judge Ed Kinkeade** to the Plaintiffs' Executive Committee in the DePuy Pinnacle Hip Implant Litigation MDL No. 2244 and was appointed by **U.S. District Judge David A. Katz** to the Plaintiffs' Discovery Committee in the DePuy ASR Hip Implant Products MDL No. 2197. I have also had experience in a variety of other orthopedic related litigations, including the Pedicle Screw and Sulzer MDLs.

In conclusion, I look forward to participating in this MDL and would be honored to serve on the Plaintiff Steering Committee.

Respectfully submitted,



RICHARD J. ARSENAULT

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<sup>5</sup> I served as Class Counsel in environmental litigation which settled for over a quarter of a billion dollars just days before trial. I was also one of the lead negotiators in a certified class action brought on behalf of farmers against the manufacturer of a defective product. That settlement was reached after more than fifty witnesses were heard during a five week trial. I was also selected to serve as one of the lead negotiators in Medtronic MDL 1726 and Guidant MDL 1708. In Rice MDL 1811, where I served as Chair of the Executive Committee, seven trials produced verdicts exceeding \$200 million and I was on the committee that negotiated a \$750 million settlement.

<sup>6</sup> The Association is a national organization composed of the Top 100 Trial Lawyers from each state. Membership is obtained through invitation and is extended only to those attorneys who exemplify superior qualifications of leadership, reputation, influence and stature.

**APPLICATION OF PETER FLOWERS  
FOOTE, MEYERS, MIELKE & FLOWERS**

FOOTE, MEYERS, MIELKE & FLOWERS, LLC

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November 7, 2012

*Via First Class Mail*

Honorable Robert L. Miller, Jr.  
United States District Court  
325 Robert A. Grant Federal Building  
204 South Main Street  
South Bend, IN 46601  
(574) 246-8080

**RE: *In Re: Biomet M2a Magnum Hip Implant Products Liability Litigation***  
**Case No.: 3:12-md-02391**

**Application of Peter J. Flowers To Be Appointed A Member of Plaintiffs' Executive Committee**

Dear Judge Miller:

Pursuant to Pre-Trial Order ("PTO") Number #1, Paragraph 15, I offer my application for a position with the Plaintiffs' Steering Committee in the referenced matter. I affirm that I have met the factors this Court outlined in its PTO #1.

As a background, I am a founding partner of Foote, Meyers, Mielke & Flowers, LLC., located in Chicago, Illinois. I have been a trial lawyer involved in mass tort litigation and individual personal injury litigation for most of my legal career. My office and I have great interest in this litigation, and have substantial resources and time to commit to it. I am fully prepared to commit my time and all of my Firm's resources, including several attorneys and needed staff, in order to effectively serve as a Member of the Plaintiff's Executive Committee.

Since the conception of this litigation, I, along with many attorneys in other law firms, have actively coordinated with each other in furtherance of the litigation. I currently represent many plaintiffs who have been injured by the Biomet hip. I have filed lawsuits on behalf of several of these plaintiffs and plan to file the remaining in the MDL. I and other members of my Firm have attended and participated in presentations at several different national conferences and many teleconferences to share information concerning the litigation.



FOOTE, MEYERS, MIELKE & FLOWERS, LLC

Honorable Richard L. Miller, Jr.

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By way of professional experience, I received my undergraduate degree from Loyola University (B.A., 1989), where I was a member of Beta Alpha Psi. My law degree was achieved from DePaul University (J.D.) in 1992. I was admitted to the practice of law in Illinois in 1992, and my office has been based in the Chicago area my entire career. I am admitted to practice in the United States District Court, Northern District, Eastern District, and Southern District of Illinois; United States District Court, Southern District of Florida; United States District Court, Eastern District of Wisconsin, and in the courts of many other states, including Massachusetts, Florida, and Pennsylvania.

I belong to, and participate in, many bar associations. I have been a member of the Illinois Trial Lawyers Association for nearly 20 years, serving on many committees and sitting on its Board of Managers for the past decade. From 2009 – 2010, I served as President of this 2,200 member organization. I am currently co-chair of the metal-on-metal litigation group of the American Association of Justice. I am a member of the Illinois State Bar Association, where I currently serve on the board of the Bar Foundation, the Chicago Bar Association, the DuPage County Bar Association, and the Kane County Bar Association.

From 2007 to the present, I have been named an *Illinois Super Lawyer*. I am also recognized as a *Leading Lawyer* by my peers; a distinction awarded to less than 5% of Illinois attorneys. I am a member of the *Million Dollar Advocate Forum*, having either resolved through settlement or tried many cases in excess of \$1,000,000.00. I am also a member of the *Verdict Club*, an elite society of the most prestigious litigators in the United States whose members are nominated by fellow attorneys for membership.

I have written numerous articles on legal issues, including authoring a chapter in the Illinois Trial Lawyers Association *Medical Malpractice Trial Notebook*, as well as articles in its *Trial Journal* on many issues. I am a frequent speaker at legal seminars, many times leading discussions on mass torts involving medical devices, case selection, and expert witnesses, among other subjects.

I have tried numerous cases to verdict in various venues. I also have successfully resolved thousands of medical malpractice, medical device, pharmaceutical and other catastrophic injury cases over my legal career. My Firm and I have extensive experience in handling complex mass tort, class action and other complex litigation. My Firm and I have been appointed to numerous steering committees as well as serving as lead or co-lead counsel on consolidated mass tort litigation. Some examples are the following;

- *In Re: Zimmer NexGen Implants Products Liability Litigation, MDL No. 2272;*
- *In Re: Pradaxa (Dabigatran Etexilate) Products Liability Litigation, MDL No.2385;*

FOOTE, MEYERS, MIELKE & FLOWERS, LLC

Honorable Richard L. Miller, Jr.

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- *In Re: Ethicon, Inc. Pelvic Repair System Products Liability Litigation, MDL No. 2327;*
- *In Re: Brown v. DePuy Spine Inc: 06-0224 (MA State Court- Lead Counsel);*
- *In Re: DePuy ASR Litigation: 2010 L 10506 (IL State Court- Lead Counsel); and*
- *In Re: Actos Litigation: 2011 L 010011 (IL State Court-Co-Lead Counsel).*

In each of these matters, I have worked cooperatively with both fellow Plaintiff attorneys as well as Defense counsel in an effort to effectively and efficiently proceed forward with this litigation.

I personally have met with experts to develop the legal and scientific issues that are vital to the proper representation of our clients. I believe my experience, commitment and resources will assist in the proper, efficient and professional handling of this litigation.

With a full understanding of the obligations and importance of a Plaintiffs' steering committee member, I respectfully request that Your Honor appoint me to serve as a member of Plaintiffs' steering committee for In Re: Biomet M2a Magnum Hip Implant Products Liability Litigation. Thank you.

Very truly yours,



Peter J. Flowers  
FOOTE, MEYERS, MIELKE & FLOWERS, LLC.

PJF:ejq

**APPLICATION OF DOUGLASS A. KREIS  
AYLSTOCK, WITKIN, KREIS &  
OVERHOLTZ**



UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

|                                    |   |                        |
|------------------------------------|---|------------------------|
| IN RE: BIOMET M2a MAGNUM HIP       | ) |                        |
| IMPLANT PRODUCTS LIABILITY         | ) |                        |
| LITIGATION (MDL 2391)              | ) | CAUSE NO. 3:12-md-2391 |
|                                    | ) |                        |
| _____                              | ) |                        |
|                                    | ) |                        |
| This Document Relates to All Cases | ) |                        |
| _____                              | ) |                        |

**APPLICATION OF DOUGLASS A. KREIS FOR  
APPOINTMENT TO PLAINTIFFS' STEERING COMMITTEE**

COMES NOW, Douglass A. Kreis of the law firm of Aylstock, Witkin, Kreis & Overholtz, PLLC, and respectfully files this Application for Appointment to the Plaintiffs' Steering Committee ("PSC") for MDL 2391. Mr. Kreis is willing and available to serve as a member of the PSC; has committed the resources and time necessary to this case; has the proven ability to work cooperatively with all parties; and has the requisite professional experience and skill to assist in the advancement of this litigation.

**WILLINGNESS AND AVAILABILITY**

My firm and I have already dedicated a significant amount of resources to this litigation. We represent over 1,000 clients with metal on metal ("MoM") devices including claims against: Biomet; DePuy; Wright Medical and Stryker. With 14 attorneys and over 80 staff members, I have the availability to assign additional attorneys and staff should the need arise.

**ABILITY TO WORK COOPERATIVELY WITH OTHERS**

My firm and I have the proven ability to work cooperatively with all parties, many of whom are also submitting PSC applications for this litigation. I understand the importance of cooperating with my colleagues, both from the Plaintiff and Defense bars. Much of my success

is a direct result of my ability to negotiate and cooperate with others. My firm has served in multiple roles in MDL's where we have been required to coordinate the efforts of multiple Plaintiff lawyers, as well as work cooperatively with the Defense.

### **PROFESSIONAL EXPERIENCE IN THIS TYPE OF LITIGATION**

I have the requisite professional experience and skill to assist in the orderly advancement of this litigation. I am a managing partner with the law firm of Aylstock, Witkin, Kreis & Overholtz, PLLC, in Pensacola, Florida. I have extensive experience in handling complex litigation consolidated within the multi-district mechanism, and I have been involved in orthopedic litigation for nearly fifteen (15) years. Though no formal MDL was created, when national litigation ensued against Stryker relating to its Trident system, I undertook the role as de facto lead counsel along-side co-applicant Ellen Relkin and successfully managed and litigated a large number of claims in the face of difficult express federal preemption defenses.

Along the way, I have become one of the most knowledgeable attorneys in the country regarding orthopedic related law and science and have been asked to speak at many seminars and symposiums throughout the country regarding the status of, and interplay between, science and law in the context of the epidemiology of medical devices; potential modes of failure (general and specific causation); and the pathology, histology and presentation of related injuries.<sup>1</sup>

My firm and I have extensive experience working in MDLs and doing the work required of a PSC. Most recently, my partner, Bryan Aylstock, was appointed co-Lead over the Master

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<sup>1</sup> Biomet Metal on Metal Failures - Hip Litigation Group Presentation, Chicago, IL (July 29, 2012); Biomet Hips, The Next Metallosis Epidemic - Hip Litigation Group Presentation, Scottsdale, AZ (February 11, 2012); DePuy Metal on Metal - Science on ASR/Pinnacle, Lead Litigation Group Seminar, New York, NY (July 13, 2011); DePuy Pinnacle Hips, Mechanisms of Failure/Defects, Hip Litigation Group Presentation, Las Vegas, NV (April 13, 2011); Depuy ASR Litigation Meets Science, Hip Litigation Group Presentation, Miami Beach, FL (February 7, 2011); Detailed Examination of the Defect and Resulting Injuries; Including Preservation of Evidence Issues, The J&J DePuy Hip Recall Litigation Conference, Durham, NC (November 17, 2010); Unique Causation and Damages with DePuy ASR, DePuy Hip Recall Litigation, Miami, FL (November 3, 2010).

Docket including three MDLs within *In Re: Pelvic Repair Systems Product Liability Litigation*, MDL 2325; 2326 and 2327, before the Honorable Joseph R. Goodwin. In conjunction with, and at the direction of, Mr. Aylstock and his co-Lead, I have worked extensively on complex aspects of the transvaginal mesh project, focused principally on the general causation and mechanistic modes of failure relating to polypropylene and biologic material.

**ACCESS TO SUFFICIENT RESOURCES TO ADVANCE THE LITIGATION**

My firm and I consider the opportunity to serve on this PSC to be an honor and will continue to commit the resources and time necessary to advance this case in a timely manner.

**CONCLUSION**

For the reasons stated above, Mr. Kreis respectfully requests that your Honor appoint him to serve on the Biomet MDL PSC.

I understand and consent to my application being submitted to this Court as part of a group submission. I support attorneys and the positions proposed in the agreed upon group submission. It is my opinion and belief that the group submission and proposed structure of the Plaintiffs' leadership and Plaintiff Steering Committee are best suited to move this litigation expeditiously. I believe that the attorneys proposed for these roles and the slate of attorneys herein conform with this Court's criteria, as outlined in Pretrial Order #1.

Dated: November 07, 2012

Respectfully submitted,

\S\DOUGLASS A. KREIS  
Douglass A. Kreis  
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Pensacola, Florida 32502  
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**APPLICATION OF SHELLY HUTSON  
CLARK LOVE & HUTSON**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA**

**SOUTH BEND DIVISION**

In re: Biomet m2a Magnum Hip  
Implant Product Liability  
Litigation

MDL: 2391

THIS DOCUMENT RELATES TO ALL CASES

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**APPLICATION OF *SHELLEY V. HUTSON* FOR APPOINTMENT  
TO THE PLAINTIFF'S STEERING COMMITTEE**

In accordance with Paragraph 15 of Pretrial Order No. 1 (Initial Conference and Case Management Order), the undersigned makes this Application to the Court for appointment to the Plaintiffs' Steering Committee, as follows:

1. I am a partner in the law firm of Clark, Love & Hutson, G.P., in Houston, Texas. I concentrate my practice on complex civil litigation, including predominantly pharmaceutical liability mass torts, products liability matters and personal injury litigation. I am the head of the firm's Pharmaceutical Science Department and have litigated many pharmaceutical cases, among them Paxil, Trasyolol, Fen-Phen, Rezulin, Advair, and Avandia. At this time, I am actively litigating cases involving DePuy, Biomet, Topamax, Pradaxa, Transvaginal Mesh and Slings, and Zolofit in courts nationwide.

2. I have served in various leadership positions nationwide. For example, I am currently serving on the Science Committee in the Transvaginal Mesh and Sling MDLs before Judge Goodwin in the Southern District of West Virginia. Through my position on the Science Committee in the Transvaginal Mesh and Sling MDL, I am responsible for coordinating the development of all phases of the scientific issues for trial. This includes retaining and developing experts, educating other lawyers about key scientific issues, developing physician outlines for dissemination to all lawyers representing

mesh victims and other responsibilities to ensure cases are prepared for trial properly. I have served in similar positions in the Fen-Phen, Paxil and Topamax litigations.

3. In addition to serving on leadership positions involving pharmaceutical cases, I am an active trial lawyer and have tried several pharmaceutical cases to verdict. Most recently, I was part of the trial team that obtained a 2.5 million dollar verdict for injuries sustained by a minor in the Paxil Birth Defect Litigation. This was the first Paxil birth defect case tried in the country and resulted in two-thirds of all cases being settled within six months of the verdict.

4. Clark, Love & Hutson, G.P. is in the process of reviewing hundreds of cases involving Biomet Hip products and is actively preparing those cases for filing and trial. In addition, my firm has retained its own set of experts to assist in the immediate review of cases. My firm has received referrals from law firms throughout the United States and anticipates additional referrals. My firm has also provided intake forms, client questionnaire and evaluation assistance to numerous law firms to ensure that everyone is able to get the information needed to make an accurate evaluation of their cases.

5. Clark, Love and Hutson, G.P., is a national trial law firm of fifteen attorneys and a staff of over seventy located in Houston, Texas. It has earned a reputation nationwide for successfully litigating personal injury and products liability cases and working well with other law firms in coordinating complex litigation against Fortune 500 companies. For example, Clark, Love & Hutson, G.P. has been at the forefront of several mass tort litigations including the BP Explosion, Paxil, Trasylol and Zyprexa. In the Paxil litigation, the firm represented the overwhelming majority of clients nationwide, was appointed as lead counsel to coordinate the litigation in Pennsylvania, and successfully tried the first case in the country.

6. My reputation for working cooperatively with other attorneys is evidenced by my track record of leadership positions in numerous mass tort litigations. Further, the fact that I have had

experience both in trying pharmaceutical cases and experience in leading groups of plaintiffs' attorneys in complex litigation would serve this Court, the parties, and those injured by Biomet Hip products.

7. As a member of the Plaintiffs Steering Committee, I would uphold my duty by coordinating the responsibilities of the Steering Committee, assisting in discovery and other related matters to prepare cases for trial, appear at periodic court noticed status conferences, perform other necessary administrative or logistic functions of the PSC and carry out any other duty as the Court may order.

8. I would be honored if I was chosen by the Court to serve on the Plaintiffs' Steering Committee. I and my firm have the resources, the willingness, and availability to commit to this important project. From the efforts I have expended thus far on this project and on past projects, I can assure the Court that I am qualified to serve on the Plaintiffs' Steering Committee in this MDL.

Based on the above, the undersigned respectfully request Your Honor's appointment to the Plaintiffs' Steering Committee in the Biomet m2a Magnum Hip Implant Product Liability Litigation.

Date: 11/1/2012

Respectfully Submitted,

CLARK, LOVE & HUTSON, GP

/s/ Shelley Hutson

Shelley V. Hutson, TX Bar #00788878

440 Louisiana Street, Suite 1600

Houston, TX 77002

Tel: (713) 757-1400

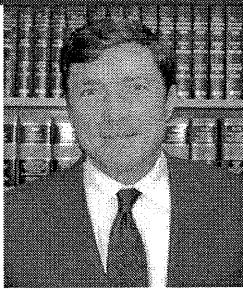
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**APPLICATION OF DANIEL S. ROBINSON  
ROBINSON, CALCAGNIE & ROBINSON**



Bio for Daniel S. Robinson, Esq.



**Daniel S. Robinson**

Robinson Calcagnie Robinson Shapiro Davis, Inc.  
19 Corporate Plaza Drive  
Newport Beach, CA 92660  
[drobinson@rcrsd.com](mailto:drobinson@rcrsd.com)

Phone: 949-720-1288  
Fax: 949-720-1292

Daniel S. Robinson is a partner of Robinson Calcagnie Robinson Shapiro Davis, Inc. (RCRSD) based in Newport Beach, California with offices in Los Angeles and Inland Empire. Mr. Robinson is admitted to practice law in New York, Pennsylvania and California. Mr. Robinson has conducted several trials to date, including a 17-day trial in 2010 where a Los Angeles jury returned a verdict of \$14,548,350.76 for a plaintiff who became a paraplegic when defendant's SUV ran a stop sign. In 2011, the Orange County Trial Lawyers Association awarded Mr. Robinson the 2011 OCTLA Young Gun Award for "exceptional trial skills, ideals of legal ethics and dedication to the principal of preserving access to a justice system for every person." In 2012, Mr. Robinson was selected by Thompson Reuters' Super Lawyers publication as a 2012 Super Lawyers Rising Star. In 2012, Mr. Robinson was chosen by the National Trial Lawyers association as one of the "Top 40 (Lawyers) Under 40" in the United States.

Mr. Robinson currently serves as the National Co-Chair of the American Association of Justice (AAJ) YAZ/Yasmin/Ocella Litigation Group and is set to be co-lead trial counsel on the first bellwether trial for YAZ-induced blood clots in Philadelphia state court. In 2009, Mr. Robinson was appointed to the Plaintiffs' Executive Committee for the federal multidistrict proceeding for the Contaminated Heparin Litigation, MDL 1953, by the Honorable James G. Carr, Chief Judge of the Northern District of Ohio. In 2012, Mr. Robinson was appointed to the Plaintiffs' Steering Committee in the In re Actos Product Liability Cases coordinated proceeding, JCCP No. 4696, by the Hon. Kenneth R. Freeman. Mr. Robinson was also selected to the Plaintiffs' Steering Committee in the Fosamax Femur Fracture coordinated proceeding, In re Fosamax/Alendronate Sodium Drug Cases, JCCP No. 4644.

**PRODUCT LIABILITY LITIGATION**

Mr. Robinson's practice includes litigation of product liability cases on behalf of those harmed by defective products. Current product liability cases include:

DePuy/Stryker/Biomet/Zimmer Hip Revisions  
Contaminated Heparin  
Transvaginal Mesh Failures  
Fentanyl Pain Patch failures  
Toyota Unintended Acceleration  
Zithromax Antibiotic (Z-Pack) Injuries

YAZ/Yasmin/Ocella Blood Clots  
Fosamax-related Femur Fractures  
Actos-induced bladder cancer  
SSRI-related Birth Defects  
(Zoloft, Prozac, Lezapro, Effoxor, etc.)  
Medtronic Infuse Bone Graft (BMP) Injuries

**PRIVACY AND BUSINESS LITIGATION**

Mr. Robinson also handles cases involving significant privacy violations, class actions and general business litigation. On March 14, 2011, Mr. Robinson was appointed Lead Counsel in JCCP 4647, In Blue Cross of California Website Security Cases, where he ultimately secured millions of dollars in benefits for over 640,000 Wellpoint customers whose information and health records were wrongfully disclosed on the internet.

**BACKGROUND**

Before working at RCRSD, Mr. Robinson was a civil litigator at a large, national defense law firm where he handled partnership disputes, real estate actions, securities law and other matters of general business litigation. Prior to that, Mr. Robinson served as an Assistant District Attorney in the New York County District Attorney's Office under the Hon. Robert M. Morgenthau. As a New York City prosecutor, Mr. Robinson conducted numerous criminal trials,

**Bio for Daniel S. Robinson, Esq.**

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investigations and grand jury proceedings in the Trial Bureau Division as well as in several of the office's specialized units, including the Domestic Violence, Public Assistance Fraud, Counterfeit Trafficking and the Identity Theft Units.

**EDUCATION**

Mr. Robinson received his Bachelor of Arts degree in English from Williams College in Williamstown, MA. He received his Juris Doctor from Loyola Law School in Los Angeles, CA, where he was awarded both the International Academy of Trial Lawyers Graduation Award and the Hon. William M. Byrne, Sr. Graduation Award. Mr. Robinson earned American Jurisprudence and First Honors Awards in Criminal Law, Criminal Procedure, Marital Property, Mass Tort Litigation and Property II: Future Possessory Interests. During law school, Mr. Robinson competed for Loyola's nationally-ranked Byrne Trial Advocacy Team where he and co-counsel took first place in the 2003 National Trial Competition Regional Championship, the 2002 Byrne Trial Advocacy Competition and the 2001 William W. Daniel Mock Trial National Championship.

**LEGAL COMMUNITY**

Mr. Robinson has served as an assistant coach for U.C. Irvine's mock trial team. He has helped educate attorneys on the use of expert witnesses and has lectured on various aspects of civil litigation, including:

- "Actos Litigation Strategy," American Association for Justice, July 2012;
- "DePuy ASR and Pinnacle Litigation Update," American Association of Justice, July 2012;
- "Using Technology in Modern Litigation," Consumer Attorneys of California, 2012 Winter Convention;
- "Use of Internet Investigation Methods in Modern Litigation," American Association of Justice, 2012 Winter Conference;
- "Transvaginal Mesh (TVM) Litigation Update," Consumer Attorneys of California, 2011 Annual Convention, November 2011;
- "Development and Devices in Upcoming Hip Litigation," HB Litigation Conference, January 2011;
- "Surviving Summary Judgment," Consumer Attorneys of California, 2010 Annual Seminar, November 2010;
- "Toyota Uncontrolled Acceleration Litigation," 360 Advocacy Institute, March 2010;
- "Facebook and Other Social Networking – What They'll Find Out About Your Client," American Association of Justice, January 2010; and
- "Using Private Investigators Under California Law," Orange County Association of Business Trial Lawyers, April 2008

**PROFESSIONAL ACTIVITIES**

Judicial Extern, Honorable David O. Carter, U.S. District Court, Central District of California

Admitted to Practice: California, New York, and Pennsylvania

Member: American Bar Association; Association of the Bar of the City of New York; American Association for Justice, Association of Business Trial Lawyers; Federal Bar Association; Consumer Attorneys of California; Orange County Bar Association; Orange County Celtic Bar Association

Board Member, Orange County Bar Foundation

Committee Member, Higher Education Mentoring Program

Board of Governors, Consumer Attorneys of California

**APPLICATION OF LARRY P. BOYD  
FISHER, BOYD, BROWN & HUGUENARD**

FISHER, BOYD, BROWN  
& HUGUENARD, L.L.P.

ATTORNEYS AT LAW  
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November 7, 2012

Hon. Robert L. Miller, Jr.  
*United States District Judge*  
Northern District of Indiana  
South Bend Division  
204 Main Street  
South Bend, IN 46601

**Re: Application of Larry P. Boyd to a position on Plaintiffs' Steering Committee in  
*Biomet M2a Magnum Hip Implant Products Liability Litigation*, Case No. 3:12-md-  
2391**

Dear Judge Miller:

I would respectfully request your consideration for a leadership position in whatever capacity you feel I might best assist the Court in this multi-district litigation. At this time our firm filed Case No. 6:12-cv-00293; *Beverly Gugino vs Biomet Orthopedics, LLC, Biomet, Inc. and Biomet, LLC*, in the United States District Court for the Western District of Texas (Waco Division.) We are also actively investigating a significant number of cases we believe may involve Biomet hip implants, and expect to file all of our Biomet hip implant cases in the MDL.

My firm is involved the DePuy ASR hip litigation and the DePuy Pinnacle hip litigation, both of which will have ties to this litigation as all three litigations involve metal-on-metal devices. In addition, I have been appointed by Judge Ed Kinkeade to serve as Co-Lead Counsel in MDL 2244; *In Re: DePuy Orthopaedics, Inc., Pinnacle Hip Implant Products Liability Litigation*. My partner, Justin Presnal, works very closely with me and the Plaintiffs; Executive Committee in the Pinnacle MDL, and also serves as a member of the Law and Motions Committee.

I graduated from Baylor Law School in 1982 with honors, where I was Editor in Chief of the Baylor Law Review. Following graduation, I served as a briefing attorney for Judge Sam Johnson on the Fifth Circuit from 1982-1984. I joined the Houston firm then known as Fisher, Gallagher, Perrin & Lewis following my clerkship with Judge Johnson, and since 1984 my practice has been almost exclusively devoted to representing plaintiffs in a wide variety of personal injury and wrongful death litigation matters. I have extensive experience handling personal injury, product liability, and medical malpractice matters.

Judge Robert L. Miller, Jr.  
November 7, 2012  
Page 2

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Throughout my career, I have been recognized by my peers and fellow members of the bar by election as a Fellow in the American College of Trial Lawyers and an Associate in the American Board of Trial Advocates, and I was listed in "The Best Lawyers in America" from 1995 through 2011. I am Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization.

My firm has been on the forefront of product liability litigation since its founding in 1996 by my partner, Wayne Fisher. I and my partners have prosecuted and tried product liability cases involving a variety of products, including automobiles, aircraft, medical devices, vaccines, pharmaceuticals, and industrial equipment, among others. I successfully prosecuted one of the very first defective airbag cases against Chrysler based on the defective design and inadequate warnings regarding the dangers associated with airbags and children. My partner Tom Brown and I tried and obtained the first verdict in the country in which a motorcoach manufacturer was found liable for failing to equip its buses with passenger seatbelts. We continue to investigate and prosecute product liability cases all over the country.

There are a number of experienced, capable counsel representing both plaintiffs and the defendants in this MDL. If the Court determines that I would be able to assist in some capacity, I and the members of my firm would be honored to do so. Thank you for your consideration.

Respectfully submitted,

*/s/ Larry P. Boyd*

Larry P. Boyd

LPB:mrc

[Type text]

**APPLICATION OF DANIEL C. BURKE  
PARKER & WAICHMAN**



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November 7, 2012

Hon. Robert L. Miller, Jr.  
United States District Court  
Northern District of Indiana  
South Bend Division  
Robert A. Grant Federal Building  
204 South Main Street, Room 325  
South Bend, IN 46601

**Re: Biomet M2a Magnum Hip Implant Products Liability Litigation, MDL 2391  
Submission of Daniel C. Burke Pursuant to Case Management Order No. 1**

Honorable Sir:

It is respectfully requested that this Honorable Court consider the following in support of the undersigned's application for a leadership position in MDL 2391 pursuant to Case Management Order No. 1 ("CMO 1") dated October 12, 2012.

I began my legal career in 1994 litigating single-event negligence and products liability cases for six years and thereafter represented plaintiffs in asbestos-related lawsuits for over three years. I have dedicated the past ten years to the prosecution of mass tort drug, medical device and consumer product litigation on behalf of injured plaintiffs -- for six years at Weitz & Luxenberg, P.C., and for the past four years at Parker Waichman LLP.

Parker Waichman LLP represents plaintiffs in nine cases involving Biomet M2a Magnum Hip Implants which have been filed since May 7, 2012, all of which have now been transferred to your Honor as part of MDL 2391,<sup>1</sup> as well as a number of additional plaintiffs with claims that have yet to be filed as of the date of this letter.

My experience in mass tort leadership includes committee appointments and sub-committee roles as follows:

- Liaison Counsel, *New York Coordinated Plavix-Related Proceedings*, Index No. 560001/12 (appointed on June 7, 2012, by the Hon. Marcy S. Friedman);

<sup>1</sup> The transferred actions include *Konowal v. Biomet, Inc., et al.* (S.D.N.Y. 1:12-cv-04342); *Ward-Davis v. Biomet, Inc., et al.* (S.D.OH 2:12-cv-00396); *Markusen v. Biomet, Inc. et al.* (N.D.CA. 12-cv-03476); *Ponicsan v. Biomet, Inc., et al.* (N.D.CA 12-cv-04276); *Smith v. Biomet, Inc., et al.* (N.D.TX 12-cv-03568); *Kordash v. Biomet, Inc. et al.* (N.D.TX. 12-cv-03573); *Marshall v. Biomet, Inc., et al.* (S.D.TX 12-cv-00038); *Rosenberg v. Biomet, Inc., et al.* (D.NV 2:12-cv-01363) and *Rose v. Biomet, Inc. et al.* (D.NJ. 2:33-av-00001).



- Member, Plaintiffs' Steering Committee, *In re: Zimmer Nexgen Knee Implant Products Liability Litigation* (MDL 2272) (appointed on September 16, 2011 by the Hon. Rebecca Pallmeyer, U.S.D.J. for the United States District Court, Northern District of Illinois);
- Member, Discovery and Law & Briefing Sub-Committees, *In re: Denture Cream Products Liability Litigation* (MDL 2051);
- Member, Science and Discovery Sub-Committees, *Yasmin & Yaz (Drospirenone) Marketing, Sales Practices & Products Liability Litigation* (MDL 2100); and
- Member, Discovery Sub-Committee, *In re: Levaquin Litigation*, Case No. 286, Superior Court of New Jersey, Law Division: Atlantic County.

I am Lead Counsel of Parker Waichman LLP's Orthopedic Implant Litigation Department, and in that capacity represent hundreds of plaintiffs who have been injured by defective hip and knee implants in litigations including *In re: Wright Medical Technology, Inc., Conserve Hip Implant Products Liability Litigation* (MDL 2329); *In re: Zimmer Nexgen Knee Implant Products Liability Litigation* (MDL 2272); *In re: DePuy Orthopaedics, Inc, Pinnacle Hip Implant Products Liability Litigation* (MDL 2244); *In re: DePuy Orthopaedics, Inc, ASR Hip Implant Products Liability Litigation* (MDL 2197); *In re: Zimmer Durom Cup Products Liability Litigation* (MDL 2158); and *In re: Stryker Trident Hip Implant Litigation*, Case No. 285, Superior Court of New Jersey, Law Division: Atlantic County.

Additionally, I have represented thousands of plaintiffs in mass tort litigation concerning prescription drugs including *In re: Baycol Products Liability Litigation* (MDL 1431); *In re: Vioxx Litigation*, Case No. 619, Superior Court of New Jersey, Law Division: Atlantic County; *In re: Vioxx Products Liability Litigation* (MDL 1657); *In re: New York Bextra and Celebrex Product Liability Litigation*, Supreme Court, New York County, Index No.: 560,001; *In re: Bextra and Celebrex Marketing Sales Practices and Product Liability Litigation* (MDL 1699); *In re: New York Chantix Product Liability Litigation*, Supreme Court, New York County, Index No.: 774,000/11; *In re: Chantix (Varenicline) Products Liability Litigation* (MDL 2092); *In re: Accutane Litigation*, Case No. 271, Superior Court of New Jersey, Law Division: Atlantic County; *In re: Reglan Litigation*, Case No. 289, Superior Court of New Jersey, Law Division: Atlantic County; *In re: Actos (Pioglitazone) Products Liability Litigation* (MDL 2299) and *In re: Pradaxa (Dabigatran Etexilate) Products Liability Litigation* (MDL 2385), as well as in litigation concerning over-the-counter consumer products including *In re: New York ReNu with MoistureLoc Product Liability Litigation*, Supreme Court, New York County, Index No.: 766,000/11 and *In re: Bayer Corp. Combination Aspirin Products Marketing and Sales Practices Litigation* (MDL 2023).

In prosecuting mass tort actions over the past ten (10) years, I have developed personal and professional relationships with many of the other attorneys and law firms involved in this matter, working alongside them for the common benefit of plaintiffs in a wide range of litigations. I have proven myself to work efficiently and cooperatively with other plaintiffs' counsel as well as with defense counsel.




My firm and I have been, and will continue to be, fully committed to devoting the necessary time, attention and resources to insure that this multidistrict litigation is successful, not only for our clients, but for all of the other litigants as well.

Parker Waichman LLP has been recognized as a leader in the field of defective drug liability, defective medical devices, products liability, toxic torts, products liability, vaccine injury, medical malpractice, nursing home negligence, explosions/fires, consumer fraud, automobile accidents, and general personal injury negligence litigation. We are committed to our clients, the Court, and the legal profession to ensure a just result is obtained for our clients in an expeditious manner.

In light of my significant medical device litigation experience and mass-tort leadership experience, I respectfully request that the Court grant me the opportunity to serve in a leadership position in *In re: Biomet M2a Magnum Hip Implant Products Liability Litigation* (MDL 2391). I am confident that my years-long history of involvement in hip implant litigation, experience in similar litigation, and my ability, determination and qualifications will serve a Plaintiffs' Steering Committee, the litigants, and this Court well.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Daniel C. Burke', is written over a horizontal line.

Daniel C. Burke

**PARKER WAICHMAN LLP**

6 Harbor Park Drive

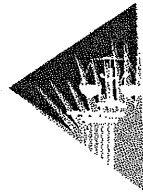
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**APPLICATION OF JOHN CLIMACO  
CLIMACO, WILCOX, PECA,  
TARANTINO & GAROFOLI**



ATTORNEYS at LAW

CLIMACO / WILCOX / PECA / TARANTINO & GAROFOLI  
CO., L.P.A.

Anthony J. Garofoli (1936-2003)  
Jack D. Maistros (1956-2001)  
Paul S. Lefkowitz, Retired

November 7, 2012

Honorable Robert L. Miller, Jr.  
USDC for the Northern District of Indiana  
325 Robert A. Grant Federal Building  
204 South Main Street  
South Bend, Indiana 46601

Re: In Re: Biomet M2a Magnum Hip Implant Products Liability  
Litigation  
MDL Docket No.: 3:12-md-2391

Dear Judge Miller:

I appreciate your consideration for appointment to the Plaintiffs' Steering Committee. I, as well as the attorneys in my office who will be working with me on this MDL, have the experience, time and desire to work in a leadership role.

My qualifications for appointment are supported by the numerous occasions in which Judges in the Northern District of Ohio, as well as District Court Judges throughout the Country, have appointed me to class action and MDL leadership roles. I am AV rated and have been an Ohio Super Lawyer since 2000. The National Law Journal named me one of the Round Table 100 Most Influential Trial Lawyers. I devote my practice to General and Complex Litigation, including Class Actions, Securities, ERISA Mass Torts, Environmental, Toxic Tort, White Collar, Criminal Civil RICO and Public Law matters.

My broad personal experience, among other matters, include:

- Member of the Castano Plaintiffs' Legal Committee serving as acting Chairman of the PLC and Co-Chairman of various committees, including the Discovery, Trial and Fee Committees. In 1994, the Castano class action was the first class action filed against the tobacco industry alleging the nicotine addiction theory. Castano, along with Mississippi, Texas and Florida are recognized as Tobacco Pioneers. The Pioneers' efforts resulted in the historic \$246 Billion settlement with the tobacco industry.



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Honorable Robert L. Miller, Jr.

November 7, 2012

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- Member of the Plaintiffs' Steering Committee and Co-Chairman of the Discovery and Trial Committees *In Re: Baycol Litigation Products*, MDL 1431, U.S. District Court of Minnesota. (\$1.3 Billion in Settlements).
- Co-Lead and Class Counsel in *In Re: Inter-Op Hip Prosthesis Liability Litigation*, MDL No. 1401, U.S. District Court, Northern District of Ohio, Eastern Division (\$3.2 Billion Settlement).
- Co-Lead Counsel *In re: OM Group Securities Litigation*, Case No. 02CV-2163, U.S. District Court, Northern District of Ohio, Eastern Division (\$92.4 Million Settlement)
- Co-Lead Counsel and one of five Class Counsel. *Gemelas v. The Dannon Co., Inc., et al.*, U.S.D.C. N.D. Ohio, Case No. 1:08-cv-236 alleging violations of the consumer protection laws on behalf of a national class of consumers arising from Dannon's contention that its DanActive yogurt is "scientifically and clinically proven" to aid digestion. (\$45 Million National Class Settlement, including injunctive relief removing "scientifically proven" "clinically proven" and "immunity" language from all packaging, labeling and advertising).
- National Liaison Counsel *In re: Oral Sodium Phosphate Solution-Based Products Liability Action*, Case No. 1:09-sp-80000, (MDL Docket No. 2066), United States District Court, Northern District Of Ohio, Eastern Division. (\$100+ Million Dollar Mass Tort [443 cases] Confidential Settlement).
- Co-Lead Counsel for five state class action, *Robert Schmidt, et al. v. AT&T*, Cuyahoga County Court of Common Pleas, Case No. CV-09-688788, \$258,477,200.00 Claims Made Settlement including *cy pres* relating to AT&T's DSL speed.

I am currently involved as:

- Co-Lead and Liaison Counsel, *In Re: Kaba Simplex Locks Marketing and Sales Practices Litigation*, MDL No. 2220, United States District Court for the Northern District of Ohio.
- Member of Plaintiffs' Steering Committee, *In Re: DePuy Orthopaedics, Inc., Pinnacle Hip Implant Liability Litigation*, MDL No. 2244.
- Member of Plaintiffs' Steering Committee *In Re: Navistar Diesel Engine Products Liability Litigation*, MDL 2223, United States District Court of Illinois, Eastern Division.
- Member of Plaintiffs' Steering Committee *In Re: POM Wonderful LLC Marketing and Sales Practices Litigation*, MDL 2199 in the United States District Court for the Central District of California.

Honorable Robert L. Miller, Jr.  
November 7, 2012  
Page 3

- Member of the Executive Subcommittee, *In Re: Dial Complete Marketing and Sales Practices Litigation*, MDL 2199 in the United States District Court for the Northern District of Illinois, Eastern Division.

Thank you for your consideration.

Very truly yours,

  
John R. Cimaco

JRC/pk  
Enclosure

**APPLICATION OF STACY K. HAUER  
JOHNSON BECKER**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

**IN RE: BIOMET M2A MAGNUM HIP  
IMPLANT PRODUCTS LIABILITY  
LITIGATION**

**MDL: 2391**

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**THIS DOCUMENT RELATES TO: ALL CASES**

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**STACY K HAUER'S APPLICATION FOR APPOINTMENT  
TO THE PLAINTIFFS' STEERING COMMITTEE**

I respectfully submit this Application for Appointment to the Plaintiffs' Steering Committee of MDL 2391.

I am a partner at the law firm of Johnson Becker, PLLC based in Minneapolis, Minnesota. I am an attorney in good standing and licensed to practice law in the State of Minnesota and the State of Wisconsin. I have devoted my entire career to representing injury victims, particularly those injured by medical devices and pharmaceutical products. Prior to law school, I received a Master's Degree from the College of Pharmacy at the University of Minnesota; I also spent time working with elderly patients as a Certified Nursing Assistant. Given my background in healthcare, I am well qualified to serve on the PSC of a medical device mass tort, including the BioMet metal hip implants currently pending in this Court.

I have professional experience in metal on metal hip litigation and other medical device litigation and can contribute to the PSC in this matter. I currently represent numerous clients injured following implant of a BioMet hip implant, including Plaintiff Olive Graham<sup>1</sup>, and expect that number to grow. Over the course of my career, I have been involved in numerous

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<sup>1</sup> I am counsel of record in the following action pending in this Court: *Olive Graham v. Biomet Orthopedics, LLC et al.* 3:12-cv-00616-RLM-CAN.

medical device and pharmaceutical MDLs, including: MDL 1431: *In re Baycol Products Liability Litigation* (Discovery Committee, Science and Expert Committee); MDL 1535: *In re Welding Fumes Products Liability Litigation* (Trial Team in *Mann v. Lincoln Elec.*); MDL 1708: *In re: Guidant Corp. Implantable Defibrillators Products Liability Litigation* (Co-Chair of Settlement Claim Review Committee); *In re: Medtronic Implantable Cardiac Defibrillators Litigation* (Settlement Claim Review Committee Member); MDL 2197: *In re DePuy Orthopedics, Inc., ASR Hip Implant Products Liability Litigation* (Law and Briefing Committee); MDL 2325: *In re American Medical Systems, Inc., Pelvic Repair Systems Products Liability Litigation* (PSC Member); MDL 2326: *In re Boston Scientific Corp. Pelvic Repair Systems Products Liability Litigation* (PSC Member); MDL 2327: *In re Ethicon, Inc., Pelvic Repair Systems Products Liability Litigation* (PSC Member); and Hennepin County Consolidation (27-CV-11-3933), *In re American Medical Systems, Inc. Litigation* (Co-Lead Counsel). Like the cases above, I would welcome the opportunity to serve both this Court, my fellow PSC members and the all of the Plaintiffs involved in this MDL.

If selected to the Plaintiffs' Steering Committee, I believe that I and my firm have the resources, willingness and availability to commit to this litigation. As set forth above, my partners and I have extensive experience in all aspects of a mass tort case, from discovery through the trial and/or settlement of a case and are willing to contribute to every phase of the litigation. As in other cases in which we have been involved, I will stay until the end.

Throughout my career, I have demonstrated the ability to work professionally and cooperatively with others. I have consistently demonstrated this ability while serving in a number of capacities in mass tort litigation over the last decade. I am also honored to currently serve as Co-Lead Counsel in a consolidation of medical device cases in the Minnesota state court system

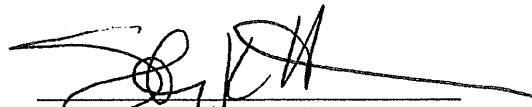


which requires working with counsel for both defendants and plaintiffs on a daily basis. Finally, I have known and worked closely with many of the PSC applicants for many years in many mass tort litigations and believe I have collegial and professional relationships with each of them. Based upon the foregoing, I respectfully seek Your Honor's appointment to the Plaintiffs' Steering Committee.

Respectfully submitted,

Dated this 7<sup>th</sup> day of November, 2012.

JOHNSON BECKER, PLLC

A handwritten signature in black ink, appearing to read 'Stacy K. Hauer', is written over a horizontal line.

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**APPLICATION OF LAWRENCE L. JONES  
JONES WARD**



November 4, 2012

**FILED VIA ECF/CM SYSTEM**

Judge Robert L. Miller Jr.  
United States District Court  
Northern District of Indiana  
325 Robert A. Grant Federal Building  
204 South Main Street  
South Bend, Indiana 46601

**RE: Application for Plaintiff's Steering Committee for In Re: Biomet M2a Magnum Products Liability Litigation, MDL 2391**

Dear Judge Miller:

As lead counsel for numerous plaintiffs who have claims arising from the Biomet M2a Magnum hip implant, I respectfully tender this application for one of the Plaintiffs' Steering Committee positions for MDL 2391.

In my experience, the best PSC committee members possess three important skill sets: 1) the experience and intellect to litigate complex cases; 2) the ability to work well with others; and 3) the ability to adequately serve the constituency that the PSC represents –the lawyers who have cases –and keep those constituents informed.

**1. Experience and Intellect**

While I have many professional accomplishments of which I am proud, I believe there are three that are indicative of my capabilities as a lawyer.

a) In November 2009, Governor Steve Beshear appointed me to temporarily serve as a Special Justice on the Kentucky Supreme Court, which is Kentucky's highest appellate court. At the age of 38, I was one of the youngest to ever serve as a Kentucky Supreme Court Justice. Ultimately, the Chief Justice selected me to author the opinion of the Court –which was adopted unanimously by my fellow Supreme Court Justices.

b) After just 5 years in practice, I received the Martindale-Hubbell AV-rating based upon peer reviews from practicing lawyers and local judges. Additionally, I have also received various recognitions for, among other things, Kentucky Super Lawyer, Kentucky's Top Lawyers, Kentucky Top Trial Attorneys, Louisville Top Lawyers, KJA Board Member of the Year, and the University of Kentucky College of Law Outstanding Young Alumnus of the Year.

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c) I am a *cum laude* graduate of the University of Kentucky College of Law, graduating in the top 11% of my class, where I served as an Associate Editor for the *Kentucky Law Review*.

As far as experience with complex cases, I spent nearly the first seven years of my career litigating complex business disputes and product liability claims for some of the largest companies in the United States. It was during that time that a partner at the firm exposed me to plaintiff cases for purposes of training me as a trial lawyer. I left that firm to start what became the largest plaintiffs' personal injury firms in Kentucky. Two years ago, I founded my current firm, Jones Ward PLC, to focus largely on mass torts, products liability and class action cases. My firm is currently 10 lawyers strong—and continues to grow—and is commonly regarded as the most experienced firm within Kentucky that handles mass tort cases.

During the last few years, I have been actively involved in several pharmaceutical and medical device multi-district litigation (MDL) cases, including most recently In re: DePuy Orthopedics, Inc. ASR Products Liability Litigation, MDL 2197; In re: Yasmin and Yaz (Drospirenone) Marketing, Sales Practices and Products Liability Litigation, MDL No. 2100; In re: Digitek Products Liability Litigation, MDL No. 1968; and In Re: Total Body Formula Products Liability Litigation, MDL No. 1946. I have been less involved, but still represented hundreds of individuals, in dozens of other pharmaceutical and medical device multi-district litigation proceedings.

As a testament to my firm's ability to handle complex pharmaceutical and medical device cases, it is worth noting that my firm was recently selected by the Kentucky Attorney General to represent the Commonwealth of Kentucky against GlaxoSmithKline ("GSK") to pursue all claims on behalf of both the state and its consumers related to GSK's marketing and sales practices in its promotion of the pharmaceutical drug Avandia. Additionally, my firm has served, or is currently serving, as lead counsel in dozens of complex class action cases involving a wide range of legal issues such as Sherman Act violations, environmental contamination, state and federal wage and hour violations, computer security breaches, and state consumer protection laws. Moreover, I have served as co-lead counsel for several *Qui Tam*/False Claims Act cases involving pharmaceutical and governmental contractor corporate fraud that resulted in the wrongful payment of approximately \$500 million dollars worth of claims by state and federal governments.

Additionally, I have prosecuted numerous individual pharmaceutical and medical device cases in state and federal courts across the country. As lead trial counsel, I have been responsible for all aspects of the cases, including written discovery, depositions, briefing, expert development, and trial.

I am regularly called upon to lecture, both locally and nationally, on the topic of mass torts and pharmaceutical litigation, including the ethics of aggregate settlements. As it relates specifically to hip implant cases, I recently lectured at the American Association for Justice Annual Convention in July 2012 on the topic of proving damages in metal-on-metal hip implant cases.

My firm currently represents hundreds of individuals who have been injured as a result of metal-on-metal hip implants. I am familiar with both the science and the injuries caused by the designs of different manufacturers' (DePuy, Biomet, Stryker, Zimmer and Wright) metal-on-metal hip products. Therefore, I believe that I am particularly well-suited to serve as a member

of the steering committee in this litigation.

**2. Ability to Work Well With Others**

During my career, my peers have honored me with selection to numerous leadership positions in my state and local bar associations, as well as the national and state trial lawyers associations. Some of these positions have been by appointment, while others have been by election. Both, however, speak to my ability to lead and work well with other attorneys.

Among others, I am currently a member of the Board of Governors for both the American Association for Justice and the Kentucky Justice Association. In the past, I have served three terms on the Louisville Bar Association's Board of Directors, as well as the Chair of the Litigation Section and the Young Lawyers Section.

Outside of the legal profession, Kentucky's Governor has appointed me to serve as a Board Member for both the Kentucky Higher Education Assistance Authority and the Kentucky Student Loan Corporation, both of which are responsible for servicing approximately \$8.1 billion worth of student loans.

With respect to MDL involvement, I just recently completed my service as a member of the Plaintiff's Steering Committee in the Total Body Formula MDL. Additionally, lead counsel in other MDL proceedings have selected me to serve on various committees, performing such tasks as class action briefing, deposition preparation and document review of key witnesses. By all accounts, at least to my knowledge, I have been pleasant to deal with and have completed all assignments in a timely fashion.

**3. Serving the Constituents**

In my opinion, this is one of the most important, yet often overlooked, duties of a PSC member. Many lawyers and their clients sometimes feel as though they lose control of their cases following transfer to the MDL. These feelings are exacerbated by the lack of information and communication that is typical of many MDL proceedings. Having been both on the "inside" and the "outside" of the various steering committees, I bring a fresh perspective to the management of the case. As a PSC member, I vow to keep the constituency well informed about the progress of the litigation.

If you wish to consult one of our local judges for a recommendation, I suggest your former colleague on the Judicial Panel on Multi-District Litigation, Judge John G. Heyburn II. Judge Heyburn has experience with me both professionally and personally. I expect that he would corroborate what I have represented to the Court.

Please feel free to call me if you have any questions about my application. Thank you for your consideration.

Sincerely,

**JONES WARD PLC**

/s/ Lawrence L. Jones II

**APPLICATION OF MICHELLE L. KRANZ  
ZOLL, KRANZ & BORGESS**

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**Zoll, Kranz & Borgess LLC**  
ATTORNEYS AT LAW

David W. Zoll  
Michelle L. Kranz  
Pamela A. Borgess  
Wesley D. Merillat  
Zachary J. Murry  
Donato J. Borrillo, M.D., J.D.

November 5, 2012

Hon. Robert L. Miller, Jr.  
U.S. District Court, Northern District of Indiana  
325 Robert A. Grant Federal Building  
204 S. Main St.  
South Bend, Indiana 46601

Re: MDL 2391

Dear Judge Miller:

I am seeking a position on the Biomet. Plaintiffs' Leadership Committee. I am currently counsel of record in the case of *Olive Graham v. Biomet Orthopedics, LLC et al.*, N.D. of Indiana, 3:12-cv-00616-RLM-CAN. Additional Biomet cases are currently under our review. I was admitted to the practice of law in Ohio in 1993 where my license is in good standing. I am admitted to practice in the U.S. District Courts for the Northern (1994) and Southern (2006) Districts of Ohio, the Sixth Circuit Court of Appeals (1994), the Seventh Circuit Court of Appeals (2007), and the United States Supreme Court (1998). As a plaintiff's attorney for the last 19 years, I have extensive trial and appellate experience before a wide variety of both State and Federal Courts. Thus, I am well versed in trial and appellate practice and procedure.

My introduction to MDLs commenced in 2001 with MDL 1401, *In Re: Sulzer Hip Prosthesis and Knee Prosthesis*. While I assisted in science based discovery in which my partner, David W. Zoll, was assigned a leading role, my primary initial experience was with document review. While there is certainly nothing particularly glamorous about document review, the experience is an essential building block of an MDL practice. That work also provided me with the opportunity to meet other attorneys dedicated to MDL work and to develop working relationships with those attorneys. These positive and productive working relationships are critical to the overall success of any MDL.

Over time, I continued to work on numerous aspects of both product liability and anti-trust MDLs and in turn acquired critical and valuable experience. Some of those MDLs include *In Re: Text Messaging, Digitek*, and *Yasmin*. In those MDLs, I worked diligently on the drafting of complaints and briefs, completing document review, and conducting discovery. My involvement also demanded that I develop an understanding of the practice and procedure unique to an MDL. I worked closely with those in leadership positions, accepted countless research, pleading and briefing assignments given by those attorneys, and ensured the timely and competent completion of those assignments. It also allowed me to build a substantial working knowledge of hip



prosthesis and the devastating impact a failed hip prosthesis can have on individuals and their families.

David Zoll and our Firm served as Liaison and Lead Counsel on *In Re: Heparin*. As a partner of the Firm, I assisted with the litigation from its inception. My duties included research, briefing, discovery, and participation in settlement efforts. Each phase of that case exposed me to the dynamics, as well as the demands, of a leadership role in MDL cases. I interacted with a wide variety of plaintiffs' attorneys in furtherance of the Heparin litigation and settlement efforts. I also experienced working with both local and national defense counsel in the resolution of disputes arising during litigation and with national counsel on issues relating to settlement. While there were disagreements, I understand the critical importance of professional, collegial communication without sacrificing zealous representation of our clients.

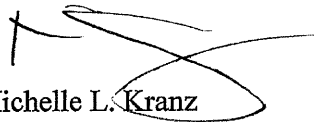
That experience culminated in my appointment by Hon. David A. Katz, Northern District of Ohio, Western Division, as Liaison Counsel in the *DePuy ASR Orthopedics*' MDL 2197. For the past two years, I have been intimately involved with all aspects of this litigation. My principle duties are extremely varied and a few include maintaining regular contact with the Court and hundreds of filing attorneys, responding to their questions regarding the MDL and MDL procedures, coordinating filing of MDL pleadings and discovery, and maintaining common benefit time and expenses. I have also conducted depositions on behalf of the MDL as well as participated in and organized numerous litigation functions including bellwether selections.

The relationships and experience I have gained in the *DePuy ASR* case as well as other complex litigation has deepened my commitment to cooperation, civility, organization and communication in the litigation process. I enjoy and value the challenges which mass tort litigation offers and I have developed an even greater appreciation of the importance of good will, hard work, reliability and perseverance.

My 19 years of practice have been dedicated to representation of plaintiffs. During those years, I strived to strike the balance between zealous advocacy for my clients while still maintaining a level of professionalism and civility that I believe is required of all attorneys and most particularly of those selected for leadership roles in an MDL. I am prepared to be part of the leadership committee of this MDL.

Thank you for your consideration of my application.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle L. Kranz", with a large, stylized flourish extending from the end of the name.

Michelle L. Kranz

MLK:mlk



**APPLICATION OF MICHAEL L. MCGLAMRY  
POPE, MCGLAMRY, KILPATRICK, MORRISON  
& NORWOOD**

## **MICHAEL L. McGLAMRY**

Mr. McGlamry graduated Magna Cum Laude from Wake Forest University in 1978 and Cum Laude with a J. D. from the University of Georgia Lumpkin School of Law in 1982. Since completion of law school, Mr. McGlamry has continuously practiced in Atlanta, Georgia. He is licensed in the State and Superior Courts of Georgia, the Northern, Middle, and Southern Districts of Georgia, the Eleventh Circuit Court of Appeals, and the United States Supreme Court.

Mr. McGlamry and Pope McGlamry have been involved in mass tort, multi-district, and complex individual and commercial litigation, including automotive, household, pharmaceutical, agriculture, aviation, and medical device product litigation for over 30 years. Mr. McGlamry has served in the leadership in several MDL actions, including the following: (1) Co Lead Counsel, (In re: Wright Medical Technology, Inc. Conserve Hip Implant Products Liability Litigation, MDL No. 2329); (2) DePuy ASR™ Hip System cases, Judicial Council Coordination Proceeding No. 4649; (3) In re: National Football League Players' Concussion Injury Litigation, MDL No. 2323; (4) In re: WellNrx Marketing and Sales Practices Litigation, MDL No. 1861; and (5) In re: Consolidated Non-filing Insurance Fee Litigation, MDL No. 1130.

Mr. McGlamry and Pope McGlamry have also been involved in and designated as class counsel by federal and state courts in numerous class actions. He has participated in verdicts and settlements on behalf of individuals and representative plaintiffs that have generated over \$500 million in recovery. A partial list of the complex individual actions (mass tort, products liability, personal injury and wrongful death), commercial litigation and class action litigation that Mr. McGlamry has participated in is included above, and a more detailed list is available at [www.pmkm.com](http://www.pmkm.com) on the Verdicts & Settlements page. In handling these matters, Pope McGlamry has established expertise in complex cases.

In addition to the above, Mr. McGlamry has participated as a member of the U.S. District Court, Northern District of Georgia's Ad Hoc Committee on E-Discovery. As a member of that Committee, he was involved in the development of the Federal Civil Trial Practice 2010 seminar sponsored by the Institute of Continuing Legal Education (ICLE) in Georgia. Mr. McGlamry has also been appointed by the State Bar President to serve on the Joint Task Force on Electronic Discovery, a joint effort of the State Bar of Georgia and the Georgia Chamber of

Commerce. He presently serves on the Judicial Procedure and Administrative/Uniform Rules Committee and Subcommittee on E-Discovery established by the Georgia State Bar. He is the Ethics Committee Chairman for the Georgia Trial Lawyers Association ("GTLA"), co-chair of the GTLA's Business Litigation Section, and Congressional District Five representative to the GTLA.

**APPLICATION OF DERRIEL C. MCCORVEY**  
**LAW OFFICE OF DERRIEL C. MCCORVEY**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTHBEND DIVISION**

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**IN RE: BIOMET M2a MAGNUM HIP  
IMPLANT PRODUCTS LIABILITY  
LITIGATION**

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**THIS DOCUMENT RELATES TO:**  
**All Cases**

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**MDL No. 2391  
12-md-2391**

**APPLICATION OF DERRIEL C. MCCORVEY FOR  
APPOINTMENT TO THE PLAINTIFFS' STEERING COMMITTEE**

Derriel C. McCorvey requests that this Honorable Court appoint him to the Plaintiffs' Steering Committee ("PSC") in MDL No. 2391. Mr. McCorvey respectfully requests that this Court consider and accept this application, and that Mr. McCorvey be appointed to the PSC herein. In support thereof, he states as follows:

Mr. McCorvey is counsel of record in the following case in the Biomet Litigation in *David L. Hurt, et al v. Biomet, Inc., et al*; Case No. 2012-cv-00604-FTM-SPC, which was filed 11/05/2012 in the federal Middle District of Florida and is currently being transferred to the Northern District of Indiana.

This Court should ensure that designated counsel fairly represent the various interests in the litigation. Where diverse interests exist among the parties, the court may designate a committee of counsel representing different interests.<sup>1</sup> The importance of representativeness and diversity in the appointment of MDL PSC should be emphasized.

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<sup>1</sup> Manual for Complex litigation, Fourth; § 10.224.

Mr. McCorvey is African American and would be representative of many Plaintiffs in the putative class. In a case of this magnitude, minorities need and should have a racially diverse steering committee to ensure minorities have a voice in this litigation.

The Plaintiffs Steering Committee would benefit from lawyers and law firms who are both leaders and followers at the same time. Mr. McCorvey has demonstrated that he has the ability to do just that.

Mr. McCorvey seeks the Court's consideration for the appointment to the PSC with the knowledge that this case presents complex litigation that will require the cooperative efforts of leading attorneys throughout the nation.

Mr. McCorvey possesses the willingness and availability to commit to this time-consuming project. Mr. McCorvey has demonstrated an ability to work cooperatively with others, and has extensive professional experience in diverse areas of litigation, from class actions to maritime injuries to automobile accidents, to settlement Monitoring and Portfolio Monitoring for institutional clients, such as public pension funds, Taft-Hartley pension funds, and private investment funds to wrongful death, and other legal causes of action.

Mr. McCorvey has been appointed as a PSC member in the MDL NO. 2323, In re: National Football League Players' Concussion Injury Litigation. Mr. McCorvey is a PSC appointed Plaintiffs' attorney, in the MDL NO. 2179, In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010. He is also involved in MDL NO. 2299, In re: Actos (Pioglitazone) Products Liability Litigation, 6:11-MD-2299; In Re: American Medical/ In re: Pelvic Repair; 2:12-md-02325, MDL. NO. 2328, In re: Pool Products Distribution Market Antitrust Litigation, although no committee appointments have been made yet.

Mr. McCorvey demonstrated his ability to work with liaison counsel and members of his workgroups in the BP litigation, NFL Concussion litigation, Pool Products litigation and that of Actos as well as Transvaginal Mesh litigation.

Mr. McCorvey has over 13 years of trial experience, encompassing a vast scope of legal representation and is the founding owner of the Law Office of Derriel C. McCorvey, LLC. Mr. McCorvey received a Bachelor of Arts degree in economics in 1993 from Louisiana State University and a Doctorate of Jurisprudence from the Southern University Law Center in 1998.

Mr. McCorvey served as proud member of the L.S.U. Fighting Tigers Football team from 1988-1993. As a member of the Fighting Tigers, Mr. McCorvey received All S.E.C. honors in 1991, All academic S.E.C. honors from 1991-1993. Mr. McCorvey's L.S.U. academic honors also included being an L.S.U. Athletic Directors Cup recipient from 1990 -1993 and the recipient of the Andrew Gumby Award in 1993, given to the Latin student with the highest grade point average. Immediately after graduating from LSU, Mr. McCorvey played briefly as a member of the Indianapolis Colts of the National Football League in 1993.

Mr. McCorvey is admitted to practice in: Louisiana and Texas; U.S. District Courts for the Western and Eastern Districts of Louisiana and U.S. 5<sup>TH</sup> Circuit Court of Appeal, and likewise, he has been admitted pro hac vice in the U.S. District Courts, Eastern and Southern Districts of Texas and the Northern District of Georgia.

Mr. McCorvey has handled virtually every type of case in the area of civil litigation. The success of Mr. McCorvey's practice is founded on the premise that the client should always be the number one priority. Mr. McCorvey has tried cases in state and federal courts throughout Louisiana and Texas. To wit: [*In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010, MDL NO. 2179 (EDLA)*]; *City of New Orleans Employee's Retirement*

*System v. Hayward, et al, Case No. 10-cv-1640 (EDLA); Calvin Richard v. BP, PLC, et al; Case No. 10-cv-01438 (EDLA); Richard Brondum et al v. BP, PLC, et al; Case No. 10-cv-01613 (EDLA); Joshua Danzig v. BP, PLC, et al; Case No. 10-cv-01726 (EDLA); Jarvis Harmon, Sr. v. BP, PLC, et al; Case No. 10-cv-1931(EDLA); Rickey Mergist v. Multi-Chem Group, L.L.C., et al, Case No. 11-cv-1821(WDLA); United States v. Ernie Joseph Davis, Case No. 01-cr-00074 (EDTX); Raphael Simien v. Louie Padilla, et al, Case No. 02-cv-2530 (WDLA); Larry Jones v. Delta Towing, L.L.C., et al Case No. 06-cv-02347 (EDLA); Denna Bly v. United Fuels & Lubricants, L.L.C., et al, Case No. 08-cv-00051 (WDLA); Garland Jean-Batiste v. Lafayette City-Parish Government, et al, Case No. 08-cv-01985 (WDLA); United States v. Clifton J. Trahan, Case No. 08-cr-00088 (EDTX); United States v. \$112,032.00 U.S. Currency; Case No. 08-cv-00686 (EDTX); United States v. Darius Nathaniel Fisher, Case No. 08-cr-0205 (WDLA); United States v. Darius Nathaniel Fisher, Case No. 10-30424 (USCOA 5<sup>th</sup> Cir.); Shawn D. Jackson v. Hall County Sheriff's Office, et al, Case No. 10-cv-00070 (NDGA); Larry Jones, Jr. v. HUB Enterprises, Inc., Case No. 11-cv-00347 (WDLA); and Shawn D. Jackson v. Hall County Government, et al, Case No. 11-cv-00058 (NDGA).; Brooks et al V. National Football League et al; Case No. 2:12-cv-0094-SSV-DEK; Oasis Pool Service, Inc. v. Pool Corp., et al, Case No. 12-cv-01095 (EDLA); Beauregard-Southerland, et al v. Boston Scientific Corp., et al, Case No. 5:12-cv-02317(WDLA)]*

Mr. McCorvey is an attorney who has learned the value of cooperation dating back to his commitment as a team player as a member of the Fighting Tigers of Louisiana State University and as a member of the Indianapolis Colts.

Mr. McCorvey is ready, willing, able, and available to participate in all pretrial, discovery and trial work necessary, knowing full well the intensive time demands required of this litigation.



Mr. McCorvey also has available sufficient staff and resources to devote to this litigation and can meet any and all financial contributions that may be necessary to ensure the smooth, efficient, professional, and successful workings of the PSC.

If selected to the PSC, Mr. McCorvey will be responsible for all common benefit work load assigned to him by the executive committee. Likewise, if appointed to the PSC, at the end of this litigation Mr. McCorvey will submit common benefit time and expenses for work that his firm incurred and would accept whatever award of attorney fees and costs that this Court deems appropriate.

The litigation of this case will require the cooperative efforts of all of the attorneys involved, many of whom are from different parts of the country with different talents and experiences. The ability to function as a team, that is to work cooperatively toward a common goal while overcoming differences, obstacles, and disagreement, is vital to the success of the PSC.

WHEREFORE Derriel McCorvey respectfully requests appointment to the PSC.

Respectfully Submitted by:

**THE LAW OFFICE OF  
DERRIEL C. McCORVEY, L.L.C.**

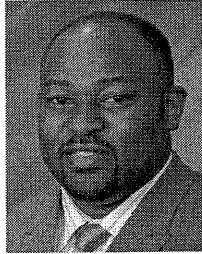
/s/ Derriel C. McCorvey  
Derriel C. McCorvey  
LABR# 26083 / TXBR# 24073351  
Post Office Box 2473  
115 W. Main Street, Suite 14  
Lafayette, LA 70501  
Tel.: (337) 291-2431  
Fax: (337) 291-2433  
Email: [derriel@mccorveylaw.com](mailto:derriel@mccorveylaw.com)  
**ATTORNEY FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I certify that the above and foregoing Application of Derriel C. McCorvey for Appointment to the Plaintiffs' Steering Committee has been served on all Counsel, by filing electronically with the Clerk of the Court of the United States District Court for the Northern District of Indiana by using the CM/ECF System, which will send a notice of electronic filing in accordance with the procedures established in MDL 2391.

/s/ Derriel C. McCorvey

## **DERRIEL C. MCCORVEY**



*Post Office Box 2473  
115 W. Main Street Suite 14  
Lafayette, Louisiana 70502  
Tel. 337-291-2431  
Fax 337-291-2433*

**The Law Office of  
Derriel C. McCorvey, LLC**  
[www.mccorveylaw.com](http://www.mccorveylaw.com)

### **BAR ADMISSIONS**

Mr. McCorvey is admitted to practice in: Louisiana and Texas; U.S. District Courts for the Western and Eastern Districts of Louisiana and U.S. 5<sup>TH</sup> Circuit Court of Appeal, and likewise, he has been admitted pro hac vice in the U.S. District Courts, Eastern and Southern Districts of Texas and the Northern District of Georgia.

### **EXPERIENCE**

Mr. McCorvey has over 13 years of trial experience, encompassing a vast scope of legal representation and is the founding owner of the Law Office of Derriel C. McCorvey, LLC. Mr. McCorvey received a Bachelor of Arts degree in economics in 1993 from Louisiana State University and a Doctorate of Jurisprudence from the Southern University Law Center in 1998.

Mr. McCorvey served as proud member of the L.S.U. Fighting Tigers Football team from 1988-1993. As a member of the Fighting Tigers, Mr. McCorvey received All S.E.C. honors in 1991, All academic S.E.C. honors from 1991-1993. Mr. McCorvey's L.S.U. academic honors also included being an L.S.U. Athletic Directors Cup recipient from 1990 -1993 and the recipient

of the Andrew Gumby Award in 1993, given to the Latin student with the highest grade point average. Immediately after graduating from LSU, Mr. McCorvey played briefly as a member of the Indianapolis Colts of the National Football League in 1993.

Mr. McCorvey's primary focus has been civil trial litigation. His firm's goal is always to ensure that its clients who have suffered losses as a result of other people's negligence or wrongful conduct are adequately compensated. Derriel C. McCorvey's primary office is in Lafayette, Louisiana.

Mr. McCorvey has been appointed as a PSC member in the MDL NO. 2323, In re: National Football League Players' Concussion Injury Litigation. He is also involved in MDL NO. 2299, In re: Actos (Pioglitazone) Products Liability Litigation, 6:11-MD-2299; In Re: American Medical/ In re: Pelvic Repair, 2:12-md-02325; IN RE: POOL PRODUCTS DISTRIBUTION MARKET ANTITRUST LITIGATION; MDL NO. 2328; IN RE: OIL SPILL BY THE OIL RIG; DEEPWATER HORIZON IN THE GULF of MEXICO; MDL NO. 2179.

Mr. McCorvey filed several early class actions on behalf of persons and businesses impacted by the Deep Water Horizon explosion on April 20, 2010 in the Gulf of Mexico and subsequent British Petroleum oil spill in the Gulf of Mexico. The class action suits filed by Mr. McCorvey, involved a diverse group of plaintiffs; specifically, charter boat captains, commercial fishermen, recreational fishermen, business owners and property owners.

After all claims arising out of the Deep Water Horizon were consolidated, Mr. McCorvey was appointed by the Plaintiff's Steering Committee, (PSC), to two common benefit plaintiff

committees. (The Gulf Coast Claims Community Outreach committee as well as the B1 Bundle Master Complaint Economic Loss Workgroup.) Mr. McCorvey's work on these aforementioned workgroups is extensive and vital to the overall prosecution of the Plaintiffs' claims against BP and other responsible parties.

Mr. McCorvey has handled virtually every type of case in the area of civil litigation. The success of Mr. McCorvey's practice is founded on the premise that the client should always be the number one priority. Mr. McCorvey has tried cases in state and federal courts throughout Louisiana and Texas. To wit: [*In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010, MDL NO. 2179 (EDLA)*]; *City of New Orleans Employee's Retirement System v. Hayward, et al*, Case No. 10-cv-1640 (EDLA); *Calvin Richard v. BP, PLC, et al*; Case No. 10-cv-01438 (EDLA); *Richard Brondum et al v. BP, PLC, et al*; Case No. 10-cv-01613 (EDLA); *Joshua Danzig v. BP, PLC, et al*; Case No. 10-cv-01726 (EDLA); *Jarvis Harmon, Sr. v. BP, PLC, et al*; Case No. 10-cv-1931(EDLA); *Rickey Mergist v. Multi-Chem Group, L.L.C., et al*, Case No. 11-cv-1821(WDLA); *United States v. Ernie Joseph Davis*, Case No. 01-cr-00074 (EDTX); *Raphael Simien v. Louie Padilla, et al*, Case No. 02-cv-2530 (WDLA); *Larry Jones v. Delta Towing, L.L.C., et al* Case No. 06-cv-02347 (EDLA); *Denna Bly v. United Fuels & Lubricants, L.L.C., et al*, Case No. 08-cv-00051 (WDLA); *Garland Jean-Batiste v. Lafayette City-Parish Government, et al*, Case No. 08-cv-01985 (WDLA); *United States v. Clifton J. Trahan*, Case No. 08-cr-00088 (EDTX); *United States v. \$112,032.00 U.S. Currency*; Case No. 08-cv-00686 (EDTX); *United States v. Darius Nathaniel Fisher*, Case No. 08-cr-0205 (WDLA); *United States v. Darius Nathaniel Fisher*, Case No. 10-30424 (USCOA 5<sup>th</sup> Cir.); *Shawn D. Jackson v. Hall County Sheriff's Office, et al*, Case No. 10-cv-00070 (NDGA); *Larry Jones, Jr. v.*

*HUB Enterprises, Inc., Case No. 11-cv-00347 (WDLA); and Shawn D. Jackson v. Hall County Government, et al, Case No. 11-cv-00058 (NDGA).; Brooks et al V. National Football League et al; Case No. 2:12-cv-0094-SSV-DEK; Oasis Pool Service, Inc. v. Pool Corp., et al, Case No. 12-cv-01095 (EDLA)]*

Mr. McCorvey is an attorney who has learned the value of cooperation dating back to his commitment as a team player as a member of the Fighting Tigers of Louisiana State University and as a member of the Indianapolis Colts.

**APPLICATION OF PETER A. MILLER  
THE MILLER LAW FIRM**

**The Miller Firm LLC**  
**TRIAL LAWYERS**

Michael J. Miller – VA, MD, DC, PA  
Nancy Guy Miller – MS  
Bruce D. Burtoff, M.D., J.D. – VA, DC, FL, MS  
Peter A. Miller – VA  
David J. Dickens – VA, DC  
Jeffrey Travers – VA  
Tayjes Shah – PA, NJ  
Nathan Cromley – DE, PA, NJ  
Julie B. Isen – CA, IL  
Timothy S. Peck – VA, MT  
Timothy Litzenburg – VA

November 7, 2012

**The Sherman Building**  
**108 Railroad Avenue**  
**Orange, Virginia 22960**

Marcia DePalmo Swartz, R.N., MFS  
Jennifer Miller, R.N.  
Nancy Leftwich, R.N.  
Website: [Millerfirmllc.com](http://Millerfirmllc.com)  
Telephone: (540) 672-4224  
(866) 529-3323  
Facsimile: (540) 672-3055

Robert L. Miller, Judge  
USDC, Northern District of Indiana  
South Bend Division  
204 S. Main Street  
South Bend, IN 46601

Re: Application for Appointment to Biomet Plaintiff's Steering Committee

Dear Judge Miller:

Peter A. Miller respectfully files this Request for Appointment as a member of the Biomet M2a Magnum Hip Implant Products Liability Litigation Plaintiff's Steering Committee.

Mr. Miller is thoroughly dedicated to these proceedings and is available to commit his time to this project. Further, he has already invested significant time and energy into this litigation. His firm, The Miller Firm LLC, has invested and will continue to invest significant resources into this legal action.

Mr. Miller was admitted to the Virginia State Bar in 2002 and is a member in good standing. Mr. Miller is currently a partner at The Miller Firm LLC, a twelve attorney firm, where the entire firm deals exclusively with product liability, pharmaceutical litigation and medical malpractice litigation.

Mr. Miller currently serves on the Plaintiffs' Steering Committee for the Pain Pump Litigation that has been consolidated in State Court in California as JCCP 4615; in addition, Mr. Miller is in the settlement phase of his work on the Plaintiffs' Steering Committee with MDL 1968 in the Digitek Litigation. Mr. Miller was heavily involved in the Digitek litigation, conducting well over twenty corporate depositions and helping bring this multi-faceted litigation to an early resolution.

In addition, Mr. Miller was appointed the overseer of a Qualified Settlement Fund for the processing and settlement of over 900 Zyprexa claims involved in MDL 1596. During the Zyprexa litigation, Mr. Miller was heavily involved in discovery, specifically document review,



November 7, 2012

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where he became well versed with Concordance software and worked with several attorneys during the review of millions of documents, helping to bring this multi faceted, complex litigation to settlement. Mr. Miller's vast experience as a mass tort settlement administrator in both FenPhen and Zyprexa, has been a spring board for him to become experienced in many issues common to all mass torts. Those issues include, but are not limited to, liens, Medicaid/Medicare issues, Bankruptcies, Special Needs Trusts and Estate issues, all of which Mr. Miller has experience with.

Mr. Miller is also a Special Assistant Attorney General for the State of Montana concerning litigation which has been brought in the pharmaceutical arena. Mr. Miller has been actively involved in all aspects of this complex litigation but he has particularly utilized his in depth knowledge and experience with electronic discovery for the move toward the paperless arena.

Mr. Miller's past experience with multi-district drug litigations began with MDL 1203 In Re Diet Drug Products Liability Litigation. Mr. Miller conducted several depositions of prescribing and treating doctors for the lead trial group and was heavily involved in the initial trials that led to a 9-figure settlement for the firm's over 5,000 FenPhen claims. Mr. Miller has also represented clients in the following MDLs:

MDL No. 1657 – In Re Vioxx Products Liability Litigation.

MDL No. 1742 – In Re Ortho Evra Products Liability Litigation.

MDL No. 1905 – In Re Medtronic Sprint Fidelis Leads Product Liability Litigation.

MDL No. 1871 – In Re Avandia Marketing, Sales Practices and Products Liability Litigation.

MDL No. 1968 – In Re Digitek® Products Liability Litigation

Currently, Mr. Miller's firm represents approximately 65+ individuals concerning Biomet orthopedic hip injuries. He currently has no other MDL commitments other than the Pain Pump work described above and the final steps to complete the Digitek settlement.

Mr. Miller prides himself on being a team player dating back to his years as a Navy pilot. His aviation experience will allow him to use the firm aircraft to appear in person on short notice

November 7, 2012

Page 3

in South Bend, Indiana, or any location the Plaintiffs' Steering Committee feels that it is important to meet.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter A. Miller', with a large, stylized initial 'P'.

Peter A. Miller, Esquire  
The Miller Firm LLC  
108 Railroad Avenue  
Orange VA 22960  
Phone: (540) 672-4224  
Fax: (540) 672-3055  
[pmiller@millerfirmllc.com](mailto:pmiller@millerfirmllc.com)

**APPLICATION OF JOSEPH A. OSBORNE  
BABBITT, JOHNSON, OSBORNE &  
LECLAINCHE**

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

IN RE: BIOMET M2a MAGNUM HIP  
IMPLANT PRODUCTS LIABILITY  
LITIGATION

MDL NO: 2391

Honorable Robert L. Miller, Jr.

**JOSEPH A. OSBORNE OF BABBITT JOHNSON**  
**OSBORNE & LECLAINCHE'S APPLICATION FOR APPOINTMENT**  
**TO PLAINTIFFS' STEERING COMMITTEE**

COMES NOW JOSEPH A. OSBORNE of BABBITT JOHNSON  
OSBORNE & LECLAINCHE, P.A., and respectfully submits an Application for  
Appointment to the Plaintiffs' Steering Committee:

I earned a bachelor's degree from Brown University in 1987 and a law degree from the University of Florida in 1990. I am licensed to practice law in the State of Florida and am admitted to the United States District Court for the Southern District of Florida. I am a member of The American Association for Justice and the Multi-Million Dollar Advocates Forum. I have been practicing for over 20 years and have been with Babbitt Johnson Osborne & LeClainche since 1996. Our office is located in West Palm Beach, Florida. Our Firm is AV rated by Martindale-Hubbell and has been recognized by The South Florida Legal Guide, Legal Elite and the Daily Business Review for our track record and reputation. Personally, in 2010, I was a finalist for the South Florida Daily Business Review's lawyer of the year.

I limit my practice to complex civil litigation, including mass torts. I am currently liaison counsel and a member of the Plaintiff's Steering Committee in the Trasylol MDL No. 1928, pending in the United States District Court for the Southern District of Florida. I have been actively involved in all aspects of this case against Bayer Pharmaceutical including document review, depositions of Bayer witnesses, expert preparation and presenting and taking depositions of experts. I also prosecuted one of the bellweather cases from that litigation (Rodriguez v. Bayer, Case No. 1:08-MD-01928) which was settled before trial.

I currently am also serving on the Plaintiffs' Steering Committee in the Zimmer Nexgen Knee Products Liability Litigation (MDL No. 2272) before the Honorable Rebecca Daumeyer pending in Chicago, Illinois.

Additionally I have been appointed to the Plaintiffs' Steering Committee in the In Re: American Medical Systems, Inc., Pelvic Repair Systems Product Liability litigation (MDL No. 2325); In Re: C.R. Bard, Inc., Pelvic Repair System Products Liability Litigation (MDL 2187); In Re: Boston Scientific Corp. Pelvic Repair System Products Liability Litigation (MDL 2326); In Re: Ethicon, Inc., Pelvic Repair System Products Liability Litigation (MDL 2327) all before the Honorable Chief Judge Joseph R. Goodwin pending in Charleston, West Virginia.

I have also been involved in a number of other mass torts and played a vital role in:

- A) Black v. Ethicon, et al., Case No: 502004CA002466XXXXMB (lead case) against Johnson and Johnson involving Intergel (a surgical Product).
- B) Holtsberg v. Citigroup, et al., Case No: 502004CA00837XXXXMB

(lead case) involving securities losses due to diminution in value of World Com stock.

My Firm is also lead counsel in O'Shea v. Cordis Corp., et al., Case No: 502006CA013019XXXXMB (lead case) against Johnson and Johnson involving its Cypher cardiac drug eluting stents. I have also been involved in a number of other mass torts and/or MDLs including:

- Avandia product liability litigation
- Yaz/Yasmin/Ocella product liability litigation
- Depuy ASR metal on metal hip product liability litigation
- Depuy Pinnacle metal on metal hip product liability litigation
- Reglan/Metaclopramide product liability litigation
- Vioxx product liability litigation
- PPA product liability litigation

I believe my background and training demonstrates the ability to work with other firms and to act in a representative capacity with respect to various interests amongst the clients and attorneys in this case. I also have the commitment and qualifications to accomplish all of the assigned tasks of the Plaintiffs' Steering Committee.

Babbitt Johnson Osborne & LeClainche, P.A. has filed cases in this litigation and currently represents many more clients with potential causes of action to be filed.

If asked to serve on the Plaintiffs' Steering Committee, I do not see any conflicts or strain on my Firm's resources.

DATED: This 7th day of November, 2012.

Respectfully submitted,

BABBITT JOHNSON OSBORNE & LECLAINCHE, P.A.

/s/ Joseph A. Osborne  
\_\_\_\_\_  
JOSEPH A. OSBORNE  
Fla. Bar No: 88043  
jaosborne@babbitt-johnson.com  
1641 Worthington Road, Suite 100  
P. O. Box 4426  
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**APPLICATION OF ELLEN RELKIN  
WEITZ & LUXENBERG**



W E I T Z  
&  
L U X E N B E R G

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ELLEN RELKIN, Esq.  
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erelkin@weitzlux.com

November 7, 2012



Hon. Robert L. Miller  
United States District Court for the  
Northern District of Indiana – South Bend  
Robert A. Grant Federal Courthouse  
204 S. Main Street  
South Bend, Indiana 46601

Re: *In Re: Biomet M2a Magnum Hip Implant Products Liability  
Litigation* (MDL 2391)  
Case No.: 3:12-md-2391

Dear Judge Miller:

I submit this letter as an application to serve on the Plaintiffs' Steering Committee of the recently formed Biomet MDL. I am of counsel to Weitz & Luxenberg in New York City and Cherry Hill, New Jersey and have represented plaintiffs in pharmaceutical and medical device litigation for more than twenty years. I currently serve as Co-Lead counsel in the *In Re: DePuy Orthopaedics, Inc. ASR Hip Implant Products Litigation* before the Hon. David Katz in the United States District Court for the Northern District of Ohio.

I have served in leadership roles in numerous litigations. In the *In Re: Ortho Evra Litigation* (MDL 1742) that was also managed by Judge Katz, I was on the MDL Executive Committee. I also was the liaison counsel in the parallel New Jersey state court litigation before Judge Jamie Happas. I am presently co-lead counsel in the New Jersey *In Re: Yaz/Yasmin/Ocella Litigation* (Case #287) pending in the New Jersey Superior Court, Bergen County. I also sit on the Plaintiffs' Steering Committee in the *In Re: Hydroxycut Marketing and Sales Practices Litigation* (MDL 2087). Previously, I was the Federal/State Liaison in the New Jersey *In Re: PPA Litigation* (Case #264) and the New Jersey Liaison to the MDL managed by Judge Barbara Rothstein in *In Re: Phenylpropanolamine (PPA) Products Liability Litigation* (MDL 1407). I am also the Plaintiffs' Liaison Counsel in the Consolidated Stryker Hip Implant Litigation pending before the Honorable Carol Higbee in Atlantic County, New Jersey.

*Ms. Relkin is admitted in New York, New Jersey and District of Columbia, and also affiliated with the following branch office:*

200 LAKE DRIVE EAST, SUITE 205 • CHERRY HILL, NJ 08002 • TEL. 856-755-1115 • FAX 856-755-1995

My firm has filed thirteen Biomet revision cases in the federal courts which have been transferred to this Court by the JPML, and we represents 249 clients with confirmed Biomet M2a Magnum and M2a38 hip implants, of which approximately 84 have already had revision surgery or have scheduled revisions. We also have filed one case involving a Biomet C2a/M2a which is a metal on metal device, but instead of it being a mono-block device it contains a metal liner.

I am certified by the New Jersey Supreme Court as a Certified Civil Trial Attorney and am also an elected member of the American Law Institute and am a former chair of the Toxic, Environmental and Pharmaceutical Torts Section of American Association for Justice. I also serve on the Board of Trustees of the Roscoe Pound Foundation, am a Member of the Sedona Working Group on Punitive Damages and serve on the Board of Governors of the New Jersey Association for Justice. I also am a member of the Litigation Section of the ABA and am speaking at their annual winter convention on mass tort issues. I have been AV rated by Martindale Hubbell since 2001 and have published articles on scientific evidence and toxic tort issues in the *Cardozo Law Review*, *Hofstra Law Review* and the *Dickinson Journal of Environmental Law and Policy* and serve on the Board of Advisors for *BNA Product Safety and Liability Reporter* and the *Toxics Law Reporter*.

I was a member of the trial team of the Vioxx case, *McDarby v. Merck*, a case that resulted in a \$13.5 million verdict, and successfully argued the appeal before the New Jersey Appellate Division (401 N.J.Super. 10, 949 A.2d 223).

Finally, a reason I believe that I would be of value in a leadership role is my professional adversarial relationships. While I strenuously represent clients, I believe in cordiality and professionalism and thus pride myself in my respectful relationships with adversaries, fighting only when it is necessary, and more typically effectively working out disputes without the need for court intervention. By serving on the Sedona Conference and the ABA Section on Litigation, I have had the opportunity to interact with various defense counsel in the pharmaceutical and medical device field on a collegial basis, which is helpful in professionally resolving litigation disputes.

Respectfully Submitted,

  
Ellen Relkin

**APPLICATION OF JOSEPH H. SAUNDERS  
SAUNDERS & WALKER**

**JOSEPH H. SAUNDERS**  
BOARD CERTIFIED CIVIL TRIAL  
LAWYER BY THE FLORIDA BAR AND  
THE NATIONAL BOARD OF TRIAL ADVOCACY  
**MARGARET N. WALKER**

3491 Gandy Boulevard North, Suite 200  
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(727) 579-4500 FAX (727) 577-9696  
800-748-7115

Please Reply to P.O. Box 1637  
Pinellas Park, FL 33780-1637



CONSUMER JUSTICE ATTORNEYS

SaundersLawyers.com  
info@saunderslawyers.com

November 1, 2012

**MEDICAL PRODUCTS LIABILITY**

Darlene T. Korab, RN, BSN, RAC

**PARALEGALS**

Mary L. Edwards  
Diana N. Hunt  
Peter L. Schweitzer, M.A., M.Div.

**LEGAL ASSISTANTS**

Maria J. Castro  
Krista S. Walker  
Lou A. Edwards, III

The Honorable Robert C. Miller  
U.S. District Court Judge  
U.S.D.C. Northern District of Indiana  
Robert A. Grant Federal Building  
204 South Main Street, Room 325  
South Bend, IN 46601

Re: Plaintiffs' Leadership Committee Application for MDL 2391

Dear Judge Miller:

I am interested in serving on the leadership committee for the Plaintiffs in the Biomet Products Liability Litigation. Set forth below is a summary of my experience that may be helpful to you in selecting attorneys to assist you with this multidistrict litigation.

I have been a member of the California Bar since 1981 and of the Florida Bar since 1982. I am admitted to the U. S. District Courts for the Middle District of Florida and the Central District of California.

I am Board Certified in Civil Trial Law by the Florida Bar and the National Board of Trial Advocacy. I am AV rated by Martindale-Hubbell.

I have significant MDL experience and I was an author of a March 2012 per-reviewed article in the "American Association for Justice Trial Magazine on *Daubert* Qualification of Regulatory Expert Witnesses in Pharmaceutical and Medical Device cases.

I recently completed service on the Plaintiffs' Steering Committee in MDL 2096, In Re: *Zicam Litigation*, Case No. 2:09-md-02096-FJM in Phoenix, Arizona. In that MDL, my role has been retaining and defending the scientific and regulatory expert witnesses including, but not limited to, conducting depositions of both plaintiffs' and defendants' experts. That litigation was concluded in 2011 with a settlement of most cases and remand of the few remaining cases.

I am also currently a member of the Plaintiffs' Steering Committee in the New York State Court coordinated *Bausch and Lomb ReNu Contract Lens Solution Litigation*. The work of that Committee is essentially concluded.



The Honorable Robert C. Miller  
11/1/2012  
Page Two

My multidistrict litigation experience began in 1999 with MDL 1203 (In re: Diet Drugs). I had a large number of Fen Phen cases in MDL 1203 from its inception and still have active cases in that settlement program. I appeared before the court in motion practice and became familiar with every aspect of the settlement matrix and opt-out provisions. I also participated in the litigation and settlement programs in MDL 1410 (Sulzer Hip Implant); MDL 1431 (Baycol); MDL 1438 (Rezulin); MDL 1596 (Zyprexa); MDL 1657 (Vioxx); MDL 1708 (Guidant Heart Device); MDL 1726 (Medtronic Implantable Defibrillator); MDL 1785 (RuNu Contact Lens Solution); MDL 1905 (Medtronic Heart Device Leads); MDL 2047 (Chinese Drywall); and MDL 2158 (Zimmer Durom Cup Hip Implant).


I was appointed Co-Class Counsel in 2009 in the U. S. District Court for the Middle District of Florida in a certified class of 1,200 homeowners subject to toxic groundwater pollution in a claim against Raytheon. *Sher v Raytheon* Case No. 8:08-CIV-889-T-33-AEP.

I have been active in leadership positions in non-profit organizations for many years. I am currently Chair of the Board of Directors for Operation PAR, Inc., a 501(c)(3) mental health and substance abuse treatment organization that is involved with our local drug court. I am Chair of the Board of Solutions for Administrative Services, Inc. which is a consortium of non-profits designed to reduce administrative overhead for more efficient delivery of services. I am also past president and member of the executive committee of Alpha House, Inc, a residential facility for pregnant homeless women.

Currently, I have two filed cases in the Biomet MDL and I have 12 unfilled Biomet cases.

I hope to have the opportunity to assist the Court and the Plaintiffs' Committee in the Biomet MDL litigation.

Very truly yours,



Joseph H. Saunders  
Board Certified Civil Trial Lawyer

JHS/dnh

**APPLICATION OF NAVAN WARD, JR.  
BEASLEY ALLEN LAW FIRM**

# Beasley Allen

BEASLEY, ALLEN, CROW, METHVIN, PORTIS & MILES, P.C.  
Attorneys at law

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Navan Ward, Jr  
Navan.Ward@BeasleyAllen.com

November 6, 2012

Honorable Robert Miller, Jr.  
United States District Judge  
Northern District of Indiana  
204 South Main Street, Room 325  
South Bend, Indiana 46601

**Re: Attorney CV for Biomet M2a Magnum Hip Implants MDL 2391**

Dear Judge Miller:

This letter is to request appointment to the Plaintiff Leadership in the Biomet M2a Magnum Hip Implant MDL. I have considerable experience in pharmaceutical and medical device litigation. In addition, I have demonstrated the ability to work cooperatively with other lawyers in complex litigation. I am a current member of the DePuy ASR Plaintiffs' Steering Committee (PSC) for the DePuy ASR Hip Implant Products MDL 2197, as well as a current member of the DePuy Pinnacle PSC for the DePuy Pinnacle Hip Implant Products MDL 2244. Additionally, my firm represents a substantial number of individuals who are injured by other metal on metal hip devices made by various hip device manufacturers. My firm has sufficient knowledge of issues surrounding the metal on metal hip cases and is willing to commit both the time and the resources necessary to see this litigation through to a successful conclusion.

Beasley Allen has extensive experience handling complex litigation, in particular pharmaceutical drug/device product liability litigation. I am a shareholder in our Mass Torts Section, which includes twelve (12) lawyers and sixty (60) support staff members. This Section was established in 2000 and focuses on pharmaceutical drug and device product liability litigation. I have been involved in the majority of the cases that my Section has pursued. I have combined experience in litigating Celebrex, Bextra, Hormone Replacement Therapy, Meridia, Lotronex, Baycol, Pain Pump Devices, Fosamax, Permax, Dostinex, Transvaginal Mesh, Actos, SSRI Anti-depressants, and Guidant Heart Devices, along with several other drug and device litigations. As mentioned previously, I am currently heavily involved with the DePuy ASR MDL and DePuy Pinnacle MDL, as a member of the PSC in both litigations.

Honorable Robert Miller, Jr.  
November 6, 2012  
Page 2 of 3

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Additionally, my law firm has sixty-five (65) lawyers and approximately two hundred (200) support staff members. We represent the States of Arkansas, Kansas, Mississippi, South Carolina, Hawaii, Alabama, Utah, and Louisiana against seventy-five (75) pharmaceutical companies for Medical Fraud. Our firm has been selected to represent these states based on our successful track record in handling complex litigation, especially in the area of product liability involving pharmaceutical products and medical devices. Also, in addition to the leadership roles mentioned above, Beasley Allen has been selected to serve in leadership roles in numerous MDL's, including the Vioxx Products Liability Litigation (Co-Lead Counsel), MDL No. 1657; Toyota Motor Corp., Unintended Acceleration Litigation, MDL No. 2151; Deep Water Horizon Oil Litigation, MDL No. 2179; Bextra and Celebrex Product Liability Litigation, MDL No. 1699; Reciprocal of America Sales Practices Litigation, MDL No. 1551; American General Life and Accident Insurance Company Industrial Life Insurance Litigation, MDL No. 1429; Dollar General Corp. Fair Labor Standards Act Litigation, MDL No. 1635; Zolof (Sertraline Hydrochloride) Products Liability Litigation, MDL 2342; Fosamax Products Liability Litigation (No. II), MDL 2243; and Actos (Pioglitazone) Products Liability Litigation, MDL No. 2299. Beasley Allen has the experience and knowledge to successfully contribute to major complex litigation such as this Biomet M2a Magnum MDL and is eager to serve.

My firm will commit the time and resources necessary to prosecute this litigation. Within the next few weeks, we expect to file several Biomet hip claims in this MDL. We also have over eighty (80) claims under evaluation. Our firm has already committed substantial resources to this litigation and we are prepared to continue to do so until it is resolved.

As in other MDL's we are committed to working in cooperation with other counsel to advance the litigation to its conclusion – either by trial or settlement. I am currently devoting time and resources serving a leadership role in this litigation as Co-Chair of the American Association for Justice's DePuy Metal on Metal Litigation Group, which has provided valuable information regarding the Biomet M2a litigation to several hundred attorneys throughout the country. Additionally, I have devoted time to speak at several seminars around the country regarding the MOM hip claims, including Biomet hip claims. These well-attended seminars were held in the following locations: Atlanta, Georgia; Montgomery, Alabama; Chicago, Illinois; New York, New York; Phoenix, Arizona; and Miami, Florida. Through these leadership and speaking opportunities, I have been able to share important and helpful information about this litigation. As a result of these efforts, cohesiveness is being established among plaintiffs' counsel. If appointed to the Biomet PSC, I will continue to work cooperatively to ensure the best outcome for the overall litigation.



Honorable Robert Miller, Jr.  
November 6, 2012  
Page 3 of 3

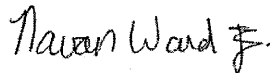
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As further demonstrated above, I confidently represent that my firm has sufficient resources, both financial and in manpower, to prosecute this litigation in a timely manner. We have been involved in many large scale complex litigation cases that required substantial resources. As such, my law firm and I have a full appreciation for the commitment necessary for this type of litigation. Finally, if appointed, I would also provide a valuable diverse perspective regarding this litigation that would benefit all of our clients.

I respectfully request to be appointed to the PSC to the Biomet M2a Magnum Hip Implant Products Litigation MDL 2391.

Very truly yours,

BEASLEY, ALLEN, CROW,  
METHVIN, PORTIS & MILES, P.C.

A handwritten signature in dark ink, appearing to read "Navan Ward Jr." with a stylized flourish at the end.

NAVAN WARD, JR.

NWjr/amt

**APPLICATION OF GENEVIEVE M. ZIMMERMAN  
ZIMMERMAN REED**



November 8, 2012

GENEVIEVE M. ZIMMERMAN  
Admitted in Minnesota and North Dakota  
[Genevieve.Zimmerman@zimmreed.com](mailto:Genevieve.Zimmerman@zimmreed.com)

*Filed Electronically*

REPLY TO MINNEAPOLIS

The Honorable Judge Robert L. Miller  
United State District Court - --- District of Indiana  
Robert A. Grant Federal Courthouse  
204 South Main Street  
South Bend, IN [zip]

*RE: Biomet M2a Magnum Hip Implant Products Liability Litigation - MDL No. 2391*  
*Application for Consideration to Serve on PSC*

Dear Judge Miller:

I submit this letter pursuant to the Court's Pretrial Order #1 requesting application for the Plaintiffs' Steering Committee ("PSC") in *In re: Biomet M2a Magnum Hip Implant Products Liability Litigation*, MDL No. 2391. *See Dkt. No. 3.* Zimmerman Reed has actively investigated problems associated with the Biomet Hips for over a year, including collecting records and consultation with relevant experts. We represent dozens of Clients (including at least three cases currently before the MDL Court). Our law firm is committed to advancing the necessary resources to secure a meaningful recovery on behalf of all Plaintiffs. I respectfully request an appointment to the PSC, and thank you for the opportunity to discuss both my qualifications and the qualifications of my firm.

I believe that the wide variety of experience I have in ten years of practice will assist me in providing invaluable support to the PSC as we successfully prosecute the Biomet hip claims. Throughout my career, I have cultivated the skills necessary to try complex cases. By way of example, I have both first and second chair trial experience, including presentation of everything from discovery and privilege disputes to evidentiary issues to medical negligence and products liability claims before judges, juries and various Courts of Appeals. Most recently, I was part of the team that tried a month-long complex products liability case before the Honorable John R. Tunheim in the *In re Levaquin Products Liability Litigation*, MDL No. 1943 (D. Minn.). Prior to joining the Zimmerman Reed law firm last fall, I spent almost ten years with the Robins, Kaplan, Miller & Ciresi law firm in Minneapolis. During my time at RKM&C, I demonstrated skills and leadership in all aspects of complex, large-scale litigation through my work in the coordinated Minnesota State Court litigation concerning recalled Guidant defibrillators, through various Vioxx MDL assignments to both the Science and Privilege Committees, and especially in my role as one of three main attorneys at RKM&C leading a consortium of attorneys in the I-35W Bridge Collapse case.

Following the unprecedented collapse of the busiest interstate highway bridge in the State of Minnesota, I volunteered to join two other attorneys at my firm to organize and lead a consortium of 19 law firms to represent victims of the collapse on a *pro bono* basis. Agreeing to such a daunting task required a sophisticated understanding of legal principles including immunity, statutes of repose, an understanding of corporate and government entity history, and the technical wherewithal to identify and understand complicated engineering documents and principles. Further, in light of formidable immunity defenses expected from the State of Minnesota, finding a solution for the victims of this tragedy required a great deal of creativity, technically proficient legal drafting, and outright tenacity: we drafted legislation and

The Honorable Judge Robert L. Miller  
 November 8, 2012  
 Page 2

lobbied elected officials, alongside our clients, until a dedicated Fund was established and signed in to law. To top it off, because we were handling this complicated litigation *pro bono*, advancing all costs on behalf of the victims anticipating no opportunity for reimbursement, we knew we must be extremely cost efficient in handling this mammoth undertaking. Following our successful work establishing the Fund and processing claims through it, we turned our attention to the private engineering firm retained by the State of Minnesota to inspect and evaluate the bridge that collapsed. By the conclusion of the two phases of this case, our team successfully obtained over \$75 million for the victims of one of our State's most horrific tragedies.

Generally speaking, I have extensive experience preparing witnesses, taking and defending depositions, identification and retention of expert witnesses, damage assessments, trial, appeal, and claims administration. Several of the most complex cases I have been involved with afforded me the opportunity to work cooperatively with others, and make decisions about appropriate collaboration and team-work when approaching time-consuming projects. I assumed responsibility for coordination of the review of millions of pages of documents, response to subpoenas, preparing for and taking multiple simultaneous depositions, drafting of expert reports, and briefing on issues ranging from privilege to causation and remand to name a few. My experience both in complex litigation as well as actual courtroom experience will assure that I am able to make a meaningful contribution to the Biomet PSC.

My new firm, Zimmerman Reed, is no stranger to mass tort litigation. For nearly thirty years, the Zimmerman Reed law firm has been a national leader in these types of cases. Charles ("Bucky") Zimmerman is one of the two founding members of Zimmerman Reed, PLLP.<sup>1</sup> In case after case – including some of the most contentious cases in recent history – Mr. Zimmerman has served in leadership or as co-lead counsel for MDLs, and has obtained both meaningful results on behalf of plaintiffs *and* change that affected the public at large. By way of example, Mr. Zimmerman served as one of the chief negotiators in the *Castano* tobacco litigation. In that case, the plaintiffs' lawyers forced the tobacco industry to fundamentally alter its marketing practices resulting in a measurable decline in the number of people addicted to cigarettes. More recently, since 2001 he has served as Co-Lead Counsel (or chief negotiator) in six MDLs. Those cases include: *In re: Baycol Products Litigation*, MDL No. 1431 (D. Minn.) (Co-Lead Counsel); *In re: Guidant Corp. Implantable Defibrillators Products Liability Litigation*, MDL No. 1708 (D. Minn.) (same); *In re: Medtronic, Inc. Implantable Defibrillators Products Liability Litigation*, MDL No. 1726 (D. Minn.) (same); *In re: Zicam Cold Remedy Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2096 (D. Ariz.) (same); *In re: Medtronic, Inc., Sprint Fidelis Leads Products Liability Litigation*, MDL No. 1905 (D. Minn.) (chief negotiator); and *In re: Levaquin Products Liability Litigation*, MDL No. 1943 (D. Minn.) (court appointed settlement counsel). In each case, Mr. Zimmerman obtained a settlement that found wide support throughout the Plaintiffs' Bar – a hallmark of effective leadership in an MDL setting. Mr. Zimmerman's experience, however, is not limited to litigation. He currently serves as an Adjunct Professor at the University of Minnesota where he teaches Mass Torts. Additionally, he is the author of *Pharmaceutical and Medical Device Litigation*. In short, his career evidences his ability to effectively prosecute and resolve complex cases, and I believe his mentorship could be invaluable in this case.

While our firm's success and accomplishments individually have earned the respect of our peers, Zimmerman Reed's long history of successfully fulfilling Federal Court appointments in MDL proceedings is well documented. For nearly thirty years, Zimmerman Reed has participated in the leadership in pharmaceutical and medical device cases. A sampling of those cases includes the following: *In re: Silicone Gel Breast Implant Products Liability Litigation*, MDL No. 926 (N.D. Ala.) (appointed to Lead Counsel Committee by Judge Carl Rubin); *In re: Temporomandibular Joint (TMJ) Products Liability Litigation*, MDL No. 1001 (D. Minn.); *In re: Norplant Contraceptive Products Liability Litigation*, MDL No. 1038 (E.D. Texas); *In re: Telectronics Pacing Systems, Inc., Accufix Atrial "J" Leads Products Liability Litigation*, MDL No. 1057 (S.D. Ohio); *In re: Serzone Products Liability Litigation*, MDL No. 1477 (S.D. W. Va.); *In re: St. Jude Medical Inc., Silzone Heart Valves Products Liability Litigation*, MDL No. 1396 (D. Minn.); *In re: Propulsid Products Liability Litigation*, MDL No. 1355 (E.D. LA); *In re: Digitek Products Liability Litigation*, MDL

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<sup>1</sup> Coincidentally, Mr. Zimmerman and I share a last name, but no relation.

The Honorable Judge Robert L. Miller  
November 8, 2012  
Page 3

No. 1968 (S.D. W. Va.); *In re Viagra Products Liability Litigation*, MDL No. 1724 (D.Minn.); and *In re: Levaquin Products Liability Litigation*, MDL No. 1943 (D. Minn.) Mr. Zimmerman was recently appointed to the PSC in the *National Football League Players' Concussion Injury Litigation*, MDL No. 2323 (E.A. Pa.). In short, Zimmerman Reed's past work evidences a solid history of successfully litigating complex mass tort actions, and an interest in remaining on the leading edge of cases impacting the public health.

In addition to being recognized by its peers, perhaps more importantly, courts have recognized Zimmerman Reed as having a long-standing reputation as a top-notch professional group of lawyers. For example, in *In re: Guidant Corp.*, Judge Frank noted "superior work the court observed from the [Zimmerman Reed firm] throughout this litigation." See Memorandum Opinion and Order, December 23, 2008, *Dkt. No.* 3558. In short, Zimmerman Reed is able to offer dedicated commitment to the Biomet PSC because it maintains a selective approach when seeking Federal Court appointments. Zimmerman Reed's prior success is directly related to its attorneys' belief in honest communication, professional standards of excellence, and preparation. Zimmerman Reed and our attorneys possess the requisite skills, knowledge, resources, and heightened sense of ethical responsibility to ensure the Biomet MDL is successfully prosecuted. An appointment to the Biomet PSC would allow us to continue our service and use our collective experience to best represent patients injured by the Biomet hip implants.

Thank you for the opportunity to submit this application for membership of the PSC. Given our Firm's experience, commitment to the MDL process, and tested personnel, I respectfully request that you consider this letter in support of my application for appointment as a member of the Biomet PSC.

Respectfully submitted,

ZIMMERMAN REED, P.L.L.P.

A handwritten signature in cursive script, reading "Genevieve Zimmerman".

Genevieve M. Zimmerman

GMZ/



# MINNESOTA LAWYER

May 12, 2008

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**M DOLAN MEDIA**  
COMPANY

Vol. 12, No. 19

## Victims' fund won't end I-35W bridge litigation

But it gives victims an expedited way to receive compensation from the state.

By Barbara L. Jones

barbara.jones@minnlawyer.com

**T**he recently passed bill creating an I-35W bridge victims' compensation fund should resolve the question of the state's potential liability to victims of the bridge collapse, but won't end bridge-related litigation against third parties.

Survivors of the collapse — as well as the estates of those killed — qualify for a damage award of up to \$400,000 from a \$24 million state fund. Victims with more severe losses could get more for uncovered medical costs and wage losses from a \$12.6 million supplemental fund. In return for the payouts, victims agree to forgo further claims against the state.

A panel of lawyers to be appointed by Minnesota Supreme Court Justice Russell Anderson will determine the exact amount of each claimant's damages. The statute states that members of the panel must be attorneys who are experienced in the settlement of tort claims and the determination of damages. Supreme Court communications director John Kostouros told Minnesota Lawyer last week that no decision has yet been made as to how the chief will select panel members.

Lawyers familiar with the bridge litigation said there is no real downside to bridge victims submitting their claims to the panel. Unlike the 9/11 victims' fund, the bridge victims' fund



Robins Kaplan Miller & Ciresi attorneys Philip Sieff, Genevieve Zimmerman and Chris Messerly, shown here at the reconstruction site of the I-35W bridge, are part of a consortium of local lawyers representing the collapse victims pro bono. (Photo: Bill Klotz)

does not require those submitting claims to waive any potential claims against third parties, such as companies that designed, manufactured and/or worked on parts of the bridge. Claimants also have the option of rejecting the award and proceeding with a lawsuit against the state. Bridge

# Panel to determine amount of bridge claimants' damages for fund

Bridge | From Page 1

claimants must file by Oct. 15 to be eligible for an award from the fund; all offers will be made by Feb. 28, 2009. Once an offer is made, a claimant has 45 days to accept or reject it. A claimant who may be eligible for a payment from the supplemental fund may choose to wait until that payment has been calculated before accepting or rejecting an offer.

Because sovereign immunity laws and statutory damage caps place severe restrictions on claimants' ability to get a substantial award from the state through the litigation process, the fund is likely to represent the best deal for most bridge victims. If a victim compensated by the fund pursues an action against a third-party tortfeasor, the state retains its subrogation rights. (The panel will also apply set-offs for insurance and other collateral source payments to any damage award.)

## Birth of fund took nine months

The legislation creating the fund came after months of negotiations starting very soon after the bridge collapsed last Aug. 1.

Within days of the disaster, a consortium of local trial lawyers offered to represent victims pro bono. Some of the victims took the lawyers up on their pro bono offer; others chose to sign up with the Minneapolis firm of Schwebel, Goetz & Sieben under the traditional contingent-fee arrangement. Both groups of lawyers are now well into the legwork for potential lawsuits.

Several lawyers, recognizing the potential hurdles presented to bridge victims from immunity laws and damage caps protecting the state from liability, immediately began pressing for a legislative solution. Minneapolis attorneys Chris Messerly and Philip Sieff led both the consortium of lawyers taking bridge victims' cases pro bono and the legislative push for the fund.

The plan adopted last week by the Legislature reflects a compromise between the lawmakers who wanted to cap victim compensation at \$400,000, and those who wanted no caps at all.

Messerly believes that there are currently about 20 colorable claims for more than \$400,000. However, more may come because medical reports are not yet completed in all cases.

In addition to the initial damage fund and the supplemental fund, the new law creates two more funds:

- a fund of \$750,000 is set for administrative expenses; and
- a fund of \$610,000 for Waite House in Minneapolis to provide services to youth and the families of youth who were on the bridge in a school bus from Waite House when the bridge collapsed.

## Opt-outs unlikely

Opt-outs are not likely, said Minneapolis attorney Wil Fluegel, a member of the pro bono consortium. The claimant would have to prove that the state is not immune from suit and that the statutory damage cap that applies in other tort cases is unconstitutional, he said.

"This fund is absolutely essential to get around the damage caps, which are de minimis in a catastrophic case," Fluegel said. (The state's liability to all claimants for injuries arising out of a single incident is capped by statute at \$1 million.)

In return for collecting from the fund, claimants will have to release the state from further claims.

The settlement fund will create "a new kind of release that lawyers haven't seen before," said Minneapolis attorney James Schwebel, whose firm represents a number of the victims. "The release may be a type of modified Pierrenger." (A Pierrenger release reserves a plaintiff's right to sue certain individuals, while giving a general release from liability to other individuals.)

In a typical Pierrenger release, the plaintiff reduces its claim against the non-settling defendants by the amount that the settling defendant pays. In the case of bridge-fund payments, on the other hand, the liability of third parties is not reduced. Instead, the state retains a subrogation right.

An interesting future question will be whether the state's subrogation claim will cover all it has paid out, or will be limited to just the third-party tortfeasors' percentages of fault, Schwebel said.


## Potential third-party defendants

The potential third-party defendants most often mentioned are URS Corp., which inspected the bridge for the state between 2004 and 2007, and PSA, the company that was working on the bridge when it collapsed. If either or both of these companies are ultimately determined to be more culpable than the state for the bridge collapse, both the victims and the state will look to them for compensation.

Both those companies have financial resources that would be available, Schwebel noted.

So, despite their success in the Legislature, the victims' lawyers are continuing their preparation for trial.

"We're waiting for the National Transportation Safety Board to graciously allow us to see the evidence," said Messerly, adding that the board refused to hold a public hearing to discuss its conclusions on the bridge. "Obviously they are afraid of something."

The NTSB has issued preliminary findings that point to a design flaw with beam-connecting gusset plates and heavy loads of construction equipment and material on vulnerable parts of the bridge. It has said that a public hearing would slow down the investigation. 

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## MINNESOTA LAWYER

**APPLICATION OF ROBERT T. DASSOW  
AND FREDERICK R. HOVDE  
HOVDE DASSOW & DEETS**



**Hovde Dassow+Deets**  
TRIAL LAWYERS

F. BOYD HOVDE  
FREDERICK R. HOVDE  
ROBERT T. DASSOW  
NICHOLAS C. DEETS

UNITED STATES DISTRICT COURT  
NORTHER DISTRICT OF INDIANA  
SOUTH BEND DIVISION

IN RE: BIOMET M2a MAGNUM HIP  
IMPLANT PRODUCTS LIABILITY  
LITIGATION (MDL 2391)

CASE NO. 3:12-md-2391

This Document Relates to All Cases

November 7, 2012

**APPLICATION OF ROBERT T. DASSOW AND FREDERICK R. HOVDE OF HOVDE  
DASSOW & DEETS, LLC TO SERVE AS PLAINTIFFS'  
PERMANENT LIAISON COUNSEL**

Pursuant to Pretrial Order No. 1, Robert T. Dassow and Frederick R. Hovde, submit this application for the appointment as Plaintiffs' Permanent Liaison Counsel in the above matter. Both have extensive experience working cooperatively and effectively with Court, Defense Counsel, and other Plaintiffs' Steering Committees in mass tort pharmaceutical and device litigation.

**PROFESSIONAL EXPERIENCE**

Rob Dassow is one of the four partners of Hovde, Dassow & Deets, LLC, an Indianapolis based law firm. Previously, he was a partner of the law firm of Siegel Carter & Dassow, and prior to that an associate at the law firm of Locke Reynolds. He received a Bachelors of Arts degree from Beloit College in Beloit, Wisconsin and a Juris Doctor degree from Valparaiso University in 1990, where he was Editor of the Valparaiso Law Review. Also, he was an Adjunct Professor of Business Law at Valparaiso University. He is currently a Member of the American Bar Association, Federal Bar Association, Indiana Bar Foundation, American Association for Justice, and a Board Member of the Indiana Trial Lawyers Association.

Mr. Dassow is admitted to practice before the bar in Indiana and admitted in the Northern and Southern District Courts of Indiana. He is also admitted to the United States Court of Appeals for the Seventh Circuit. He has represented hundreds of clients in various mass torts, class actions, and other multidistrict litigation and third party payor litigation. While not a complete list, he has represented clients in the following mass tort cases: *In Re: Diet Drug Litigation*, *In Re: Vioxx Products Liability Litigation*, *In Re: Bextra Products Litigation*, *In Re: Avandia Products Liability Litigation*, *In Re: Trasyolol Products Liability Litigation*, *In Re:*

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*Chantix Products Liability Litigation, In Re: Fosamax Products Liability Litigation, In Re: Kugel Mesh Hernia Patch Products Liability Litigation, In Re: Depuy Orthopaedics, Inc. Hip Implant Products Liability Litigation, In Re: Premarin/Prempro Products Liability Litigation, In Re: Yaz, Yasmin, Ocella Products Liability Litigation, In Re: Zoloft Products Liability Litigation, In Re Zyprexa Products Liability Litigation, In Re Transvaginal Mesh Products Liability Litigation and In Re Zimmer NexGen Knee Replacement Products Liability Litigation.*

Mr. Dassow has also been co-lead in *In Re Raptiva Litigation* in Alameda County, California; a mass tort case involving a biologic agent used to treat psoriasis.

Frederick R. Hovde is a founding member and managing member of Hovde Dassow & Deets, LLC. He is a graduate of Southern Methodist University and Indiana University School of Law-Indianapolis (J.D. Cum Laude 1980). Mr. Hovde's practice is devoted to representing Plaintiffs in personal injury, wrongful death, product liability, and medical practice claims. He was admitted to the Indiana bar in 1980. He is a Fellow of the International Academy of Trial Lawyers, American College of Trial Lawyers, Indiana College of Trial Lawyers, the Indianapolis Bar Foundation, and Litigation Counsel of America. He was President of the Indiana Trial Lawyers Association during the 2002-2003 term and has served on the Board of Directors since 1990. He is a member of the Indianapolis (Direct, Young Lawyers, 1986-1989), Indiana State (Director, Young Lawyers, 1982-1986), and the American Bar Association, the American Association for Justice, and The American Board of Trial Advocates.

Mr. Hovde has represented numerous clients in mass tort and multidistrict litigation. He has litigated diverse product liability cases including pharmaceutical and medical devices throughout his career. Mr. Hovde has handled all aspects of complex litigation against a wide variety of companies. He has tried over 95 cases to verdict over his 30 plus year career in both State and Federal Court.


In this Biomet litigation, while still in its infancy, Mr. Dassow and Mr. Hovde have been working with various Plaintiffs' counsel to begin the process of organizing counsel in this MDL. There have been several telephone conferences and electronic communication with Plaintiffs' Counsel discussing the issues raised in PTO No. 1 and the efficient coordination of Counsel in this MDL. They have worked with proposed co-lead counsel as well as several of the proposed Plaintiffs' Steering Committee attorneys. They have communicated with many counsel currently representing Plaintiffs in this MDL via email and/or telephone. To the best of Mr. Dassow and Mr. Hovde's information and belief, there has been no objection to the appointment of them as Plaintiffs' Liaison Counsel, and both believe that there is consensus and support of their appointment as set forth in PTO No. 1.

In conclusion, Robert T. Dassow and Frederick R. Hovde, respectfully request that this Honorable Court consider their applications for appointment as Plaintiff's Liaison Counsel and

after hearing at the initial status conference, consider them for appointment as Plaintiff's Liaison Counsel.

Respectfully Submitted,

HOVDE DASSOW + DEETS, LLC



Robert T. Dassow